



**CONTAINS INFORMATION MARKED AS AEO/CONFIDENTIAL
UNDER THE DISCOVERY CONFIDENTIALITY ORDER**

March 12, 2024

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By Email

Hon. Freda L. Wolfson
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**Re: JJHCS's Motion to Compel Interrogatory Responses
Johnson & Johnson Health Care Systems Inc. v. Save On SP, LLC,
Civil Action No. 22-2632 (JKS) (CLW)**

Dear Judge Wolfson:

On behalf of JJHCS, we move to compel SaveOnSP to provide complete and accurate supplemental responses to JJHCS's Interrogatories. As Your Honor knows, the Court required SaveOnSP to update its discovery responses "*without limitation*" to capture conduct through November 7, 2023. *See* D.E. 173 (emphasis by Judge Waldor). SaveOnSP has violated this Order, and the Federal Rules of Civil Procedure, in multiple respects.

First, as to a subset of JJHCS's Interrogatories—Interrogatory Nos. 4, 15–17, and 19–20 (the "Manufacturer Evasion Interrogatories")—SaveOnSP has failed to conduct a reasonable investigation to collect responsive information and to supplement its responses accordingly. These interrogatories are central to the case; they concern the deceptive tactics that SaveOnSP employs to evade detection of its scheme. Sworn deposition testimony and SaveOnSP's own documents

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indicate that SaveOnSP's existing responses are inaccurate or incomplete, which strongly indicates that SaveOnSP did not conduct a diligent investigation before responding to them. Accordingly, we request an order compelling SaveOnSP to immediately (1) diligently investigate all information in its possession potentially responsive to the Manufacturer Evasion Interrogatories; and (2) correct and supplement its responses to those Interrogatories as necessary.

Second, SaveOnSP has failed to verify all but two of its supplemental interrogatory responses, in violation of Federal Rule of Civil Procedure 33(b)(5), which requires that a corporate designee certify all responses under oath. As to the six interrogatory responses that SaveOnSP did supplement, it has verified only two of them, specifically its responses to Interrogatory Nos. 4 and 16. As to the remaining fourteen interrogatories, SaveOnSP has not provided supplemental responses at all; instead its counsel contends that no supplement is necessary. This is not an academic violation of Rule 33—there are questions about the veracity and reliability of SaveOnSP's responses. JJHCS is entitled to a sworn verification that all twenty responses are complete and accurate though the refresh period ordered by Judge Waldor. We therefore ask Your Honor to compel SaveOnSP to verify all of its responses.

Background

A. JJHCS's Interrogatories Seek Relevant Information About SaveOnSP's Efforts to Avoid Detection

SaveOnSP operates a scheme to inflate and misappropriate copay assistance funding that drug manufacturers provide for patients to help them afford their medication. SaveOnSP does this by committing various deceptive acts, including outright misrepresentations, and by threatening patients with prohibitively high costs for their badly needed medication unless they acquiesce to enrollment in the SaveOnSP program. Compl. ¶¶ 11–16, 60–67, 73–88.

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SaveOnSP knows that if manufacturers are able to identify and trace SaveOnSP's unlawful activities, they will take steps to cut off SaveOnSP's access to these funds, which are meant to benefit patients. Therefore, SaveOnSP's business model depends on constantly hiding its tracks.

For example, [REDACTED]

[REDACTED] See Ex. 1,

SOSP_0307960; *see also* Ex. 2, SOSP_0423114 ([REDACTED])

[REDACTED]. Moreover, [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED];
- [REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]

See Ex. 3, Zulqarnain Dep. Tr. at 118:16–119:15, 127:24–128:4, 138:15–139:9, and 128:17–129:20 ([REDACTED]; *id.* at 169:20–170:21, 185:2–186:16 [REDACTED]; *id.* at 114:18–116:12, 148:15–149:23, and 169:20–172:11 ([REDACTED]; *id.* at 79:19–80:11, 107:5–25, 173:25–174:17 ([REDACTED]).

As just one example, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] *Id.* at 118:5–121:25. [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED] *See id.* at 114:7–117:4 (testifying that [REDACTED]

[REDACTED]

All of these lies are part of SaveOnSP’s systematic strategy of deception targeted at manufacturers like JJHCS. Indeed, SaveOnSP has admitted that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] *See* Ex. 4, Defendant’s Feb. 1, 2024 Supplemental Responses & Objections to Plaintiff’s Interrogatories at 9–10, 12. SaveOnSP has further admitted that [REDACTED]

[REDACTED]” *Id.* SaveOnSP even [REDACTED]

[REDACTED] thereby [REDACTED] *Id.* at 10.

But SaveOnSP’s evasive tactics go beyond even this. As another example, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] *See* Ex. 5, SOSP_0943232; Ex. 6, SOSP_0694247.

And, [REDACTED]

[REDACTED]

[REDACTED] *See* Ex. 7, SOSP_0857490 ([REDACTED]

_____).

- Interrogatory No. 4 asks SaveOnSP about “the process by which SaveOnSP determines the size of the ‘inflated co-pay’ or increase to Plan Members’ Copayment or Co-insurance, including any and all criteria used to inform how that Co-payment or Co-insurance is determined.” *See* Ex. 9, Plaintiff’s First Set of Interrogatories at 6.
- Interrogatory No. 15 asks SaveOnSP to “[d]escribe whether and under what circumstances [SaveOnSP has] advised any Payors [such as health plans] to eliminate or alter [insurance] coverage for certain pharmaceuticals and to arrange for Plan Members to obtain those pharmaceuticals from any source other than Accredo, including (without limitation) independent nonprofit organizations, such as the Johnson & Johnson Patient Assistance Foundation, Inc.” *See* Ex. 10, Plaintiff’s Second Set of Interrogatories at 6.
- Interrogatory No. 16 asks SaveOnSP about measures it has taken “to prevent any Pharmaceutical Manufacturer or manufacturers from being able to identify patients that are enrolled in the SaveOnSP Program, or to make it more difficult for them to do so.” *See* Ex. 11, Plaintiff’s Third Set of Interrogatories at 5.
- Interrogatory No. 17 asks SaveOnSP about its efforts to “to prevent any Pharmaceutical Manufacturer or manufacturers from being able to identify [its] employees or representatives as being affiliated with SaveOnSP, or to make it more difficult for them to do so.” *Id.*
- Interrogatory No. 19 asks SaveOnSP about “circumstances under which [it has] lied to, misled, or deceived Pharmaceutical Manufacturers, including [REDACTED]
[REDACTED]
[REDACTED] *Id.*
- Interrogatory No. 20 asks SaveOnSP to “[d]escribe, in as much detail as possible, each instance where and all circumstances under which [it has] instructed its representatives or employees to lie to, mislead, or deceive Pharmaceutical Manufacturers including with regard to their affiliation with SaveOnSP.” *Id.*

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B. SaveOnSP Refuses to Provide Complete and Accurate Supplemental Responses as Ordered

On November 7, 2023, the Court directed the parties to update all of their discovery responses “*without limitation*” through that date. *See* D. E. 173 (emphasis by Judge Waldor). At the December 21, 2023 conference, Your Honor ordered the parties to refresh their interrogatory responses by January 31, 2024. JJHCS did so. SaveOnSP did not.

On February 1 and February 23, 2024, SaveOnSP served supplemental responses to a total of six out of twenty interrogatories. As detailed in the pages that follow, four of these responses (to Interrogatory Nos. 4, 16, 17, and 19) are inaccurate and/or incomplete. SaveOnSP did not update the other fourteen interrogatories—including two of the Manufacturer Evasion Interrogatories, Nos. 15 and 20. And SaveOnSP still has not provided verifications for its supplemental responses to Interrogatory Nos. 2, 10, 17, and 19, served on February 1, 2024.

Argument

I. SaveOnSP Must Conduct a Reasonable Investigation into the Numerous Inaccuracies in Its Interrogatory Responses and Supplement as Needed

It is well settled in this district that a party responding to interrogatories must diligently investigate the subject matter, to ensure that its responses reflect *all* relevant information available to it, including information from its employees and their documents. *See, e.g., Younes v. 7-Eleven, Inc.*, 312 F.R.D. 692, 705–07 (D.N.J. 2015) (“A party answering interrogatories is under a duty to produce all information available to the party” and a party “is charged with knowledge of what its agents know and what is in the documents available to it.”); *Joaquin v. Lonstein L. Offs., P.C.*, 2019 WL 399136, at *3 (D.N.J. Jan. 31, 2019) (“[I]nterrogatories must be answered directly and without evasion based on information the party possesses after due inquiry.”).

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Based on the information JJHCS has identified to SaveOnSP, including numerous inaccuracies, contradictions, and gaps in SaveOnSP's responses, it is now clear that SaveOnSP either did not perform the diligent inquiry that the law requires—or, worse, performed the inquiry but then omitted what it had learned from its interrogatory responses. *See* Ex. 12, Feb. 9, 2024 Ltr. from C. Zielinski to E. Snow. SaveOnSP did update a handful of responses [REDACTED] but that is not nearly enough: SaveOnSP must actually investigate whether additional relevant information has been omitted from its responses, and supplement its responses as needed.

A. Interrogatory No. 4

JJHCS's Interrogatory No. 4 inquired into the "process by which SaveOnSP determines the size of the 'inflated co-pay,' or increase to Plan Members' Co-payment or Co-insurance, including any and *all criteria* used to inform how that Co-payment or Co-insurance is determined" (emphasis supplied). In its December 23, 2022 response to Interrogatory No. 4, SaveOnSP

[REDACTED]

[REDACTED] *See* Ex. 13, Defendant's Dec. 23, 2022 Responses and Objections to JJHCS's First Set of Interrogatories at 8–9.

SaveOnSP's response omits material, highly damning facts. On February 9, 2024, JJHCS informed SaveOnSP that it had identified evidence [REDACTED]

[REDACTED] *See* Ex. 12, Feb.

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9, 2024 Ltr. from C. Zielinski to E. Snow at 2. [REDACTED]

[REDACTED]

[REDACTED] See Ex. 14, SOSP_0521309 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] See Ex. 15, Defendant's Feb. 23, 2024 Responses
and Objections to Plaintiff's Interrogatories.

The documentary evidence JJHCS has identified has much broader implications than
SaveOnSP acknowledges: [REDACTED]

[REDACTED] See, e.g., Ex. 14,
SOSP_0521309; Ex. 6, SOSP_0694247 [REDACTED]

[REDACTED]

To that same end, [REDACTED] that were
wrongly omitted from SaveOnSP's interrogatory response, e.g., [REDACTED]

[REDACTED]

[REDACTED] Ex. 5, SOSP_0943232. Yet even after JJHCS
made SaveOnSP aware of this evidence, SaveOnSP refused to update its response to address these
points. See Ex. 16, Feb. 23, 2024 Ltr. from E. Snow to C. Zielinski at 1.

SaveOnSP cannot simply rely on JJHCS's investigation and supplement its responses in a
piecemeal fashion to address only contradictory evidence that JJHCS has uncovered. Rather,
SaveOnSP itself must conduct a reasonable investigation based on the information in its possession

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and provide a comprehensive description of all methods that it has used to calculate the copay and all criteria that have informed this methodology. In particular, SaveOnSP must investigate and disclose [REDACTED].

B. Interrogatory No. 15

JHCS's Interrogatory No. 15 asked SaveOnSP to disclose all circumstances when it advised payors to eliminate or alter coverage for certain drugs and to arrange for Plan Members to obtain those drugs from other sources.¹ SaveOnSP refused to answer this Interrogatory until Judge Waldor compelled it to do so. *See* Dkt. 102. SaveOnSP's response stated that [REDACTED]

[REDACTED] *See* Ex. 17, Defendant's May 5, 2023 Supplemental Responses & Objections to Plaintiff's Interrogatories at 7.

Contrary to SaveOnSP's representation that it "[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED] Ex. 8, SOSP_1031686; *see also* Ex. 18, MIGH000014 [REDACTED]
 [REDACTED]). These documents again show that SaveOnSP failed to conduct a reasonable investigation into its own practices that bear upon this Interrogatory.

¹ Such sources include free medications made available through patient assistance programs or independent nonprofit foundations only to assist uninsured or underinsured patients with a demonstrated financial need. [REDACTED]
 [REDACTED] In other words, SaveOnSP misappropriates free prescription drugs and then charges the patient's health insurer a portion of the avoided cost.

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JHCS identified the above documents to SaveOnSP, but SaveOnSP refused to provide any explanation as to why such documents do not contradict its response. Instead, SaveOnSP merely asserted that it “has investigated” the issues implicated in Interrogatory No. 15 and concluded that no supplement was necessary. *See* Ex. 16, Feb. 23, 2024 Ltr. from E. Snow to C. Zielinski at 1. In light of the documentary evidence demonstrating that [REDACTED] SaveOnSP must conduct a thorough investigation and supplement its response accordingly to account for all responsive information.

C. Interrogatory No. 16

Interrogatory No. 16 requests information about “all measures” that SaveOnSP has “utilized to prevent any Pharmaceutical Manufacturer or manufacturers from being able to identify patients that are enrolled in the SaveOnSP Program, or to make it more difficult for them to do so.” SaveOnSP asserted in response to this Interrogatory that [REDACTED]

[REDACTED] *See* Ex. 15, Defendant’s Feb. 23, 2024 Supplemental Responses & Objections to Plaintiff’s Interrogatories at 8 (emphasis supplied). SaveOnSP also stated in response that [REDACTED]

[REDACTED] *See id.* at 8–9 (emphasis supplied).² SaveOnSP’s response is

² SaveOnSP previously agreed that its responses to Interrogatories Nos. 16–20 would [REDACTED] *See* Ex. 19, Oct. 19, 2023 Email from E. Snow to S. Arrow. As such, SaveOnSP’s responses to each of these interrogatories must account for all evasive tactics it deployed against any manufacturer, with specificity.

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deficient in at least two respects—both of which confirm that SaveOnSP has failed to conduct the reasonable investigation necessary to provide an accurate response.

First, SaveOnSP continues to assert that [REDACTED]

[REDACTED] *See id.* at 8.

[REDACTED] As mentioned earlier, SaveOnSP’s documents show that [REDACTED]

[REDACTED] *See* Ex. 5, SOSP_0943232; *see also* Ex. 20, SOSP_0272882 (explaining [REDACTED]

[REDACTED]. Despite this, SaveOnSP has simply asserted that it “disagree[s]” that the evidence JJHCS cites undermines its sworn statements. *See* Ex. 16, Feb. 23, 2024 Ltr. from E. Snow to C. Zielinski at 2. But SaveOnSP provided no explanation for this naked assertion. Nor did it provide any details about the purported investigation that it conducted to support this claim. SaveOnSP must conduct a comprehensive investigation to provide a complete response.

Second, in its February 23, 2024 supplemental response, SaveOnSP stated that [REDACTED]

[REDACTED] *See* Ex. 15,

Defendant’s Feb. 23, 2024 Supplemental Responses & Objections to Plaintiff’s Interrogatories at 8–9. [REDACTED]

D. Interrogatory Nos. 17 and 19

██████████ SaveOnSP’s responses to Interrogatory Nos. 17 and 19 remain inaccurate and incomplete—again establishing that its investigation has been inadequate.

_____ and to supplement its interrogatory responses accordingly. *See* Ex. 21, Jan. 17, 2024 Email from M. Nussbaum to G. LoBiondo. But SaveOnSP either did not investigate these issues as it committed to do, or did not update its responses to account for what it had learned.

See Ex. 4, Defendant's

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Feb. 1, 2024 Supplemental Responses & Objections to Plaintiff's Interrogatories at 9, 11 (emphasis supplied). SaveOnSP's responses then continue: [REDACTED]

[REDACTED] *Id.* (emphasis supplied). Not only are these statements inherently inconsistent with one another, but [REDACTED] has also confirmed that the former statement is incorrect. Ms. Zulqarnain testified that [REDACTED]

See, e.g., Ex. 3, Zulqarnain Dep. Tr. at 118:16–119:15 [REDACTED]
[REDACTED]); *id.* at 127:24–128:4 [REDACTED]; *id.* at 138:15–139:9 ([REDACTED]
[REDACTED]; *id.* at 148:17–149:7 ([REDACTED]. Yet SaveOnSP refuses to update its responses to fully investigate all responsive facts and address these inaccuracies. *See* Ex. 16, Feb. 23, 2024 Ltr. from E. Snow to C. Zielinski at 2.

SaveOnSP's documents also confirm that its responses to Interrogatory Nos. 17 and 19 require further investigation and supplementation. Although SaveOnSP disclosed that [REDACTED]
[REDACTED], its responses indicate that [REDACTED]
[REDACTED] *See* Ex. 4, Defendant's Feb. 1, 2024 Supplemental Responses & Objections to Plaintiff's Interrogatories at 10, 12. But SaveOnSP's document production confirms that this statement is inaccurate at least as to [REDACTED]

[REDACTED] *See* Ex. 22, SOSP_0786252 [REDACTED]
[REDACTED].

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[REDACTED]

[REDACTED] shedding light on the accuracy (or lack thereof) of its responses as to [REDACTED]. SaveOnSP must conduct a reasonable investigation to ensure that it has captured all relevant conduct responsive to these Interrogatories. *See Younes*, 312 F.R.D. at 705–07.

SaveOnSP’s responses to Interrogatory Nos. 17 and 19 are also materially incomplete for several reasons. SaveOnSP’s responses indicate that, [REDACTED]

[REDACTED] *See Ex.*
4, Feb. 1, 2024 Supplemental Responses & Objections to Plaintiff’s Interrogatories at 9, 12. Despite SaveOnSP’s agreement to “investigat[e] [REDACTED] . . . [REDACTED]”

SaveOnSP has failed to provide a comprehensive response as to the range of [REDACTED]

[REDACTED] For example, SaveOnSP fails to disclose [REDACTED]

[REDACTED] *See Ex. 23*, Jan. 9, 2024 Email from M. Nussbaum to G. LoBiondo. Discovery also reveals that SaveOnSP has been underinclusive in [REDACTED]

[REDACTED] For example, SaveOnSP’s production indicates that [REDACTED]

[REDACTED] *See Ex. 24*, SOSP_0942343.

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The evidence that JJHCS has uncovered may only be the tip of the iceberg with respect to the information that SaveOnSP has failed to disclose in response to JJHCS’s Interrogatory Nos. 17 and 19. Although JJHCS has raised this evidence to SaveOnSP and requested that it renew its investigation and supplement its answers—and despite SaveOnSP’s own agreement to do so—SaveOnSP still has not provided comprehensive responses. It must do so now.

E. Interrogatory No. 20

Interrogatory No. 20 asks SaveOnSP to describe “each instance where and all circumstances under which [it has] instructed its representatives or employees to lie to, mislead, or deceive Pharmaceutical Manufacturers including with regard to their affiliation with SaveOnSP.” SaveOnSP refused to supplement its response, despite its agreement to do so and the Court’s orders compelling an update. *See* Ex. 21, Jan. 17, 2024 Email from M. Nussbaum to G. LoBiondo (agreeing to “investigat[e] the [REDACTED] [REDACTED] and to supplement its responses accordingly). Instead, SaveOnSP stood by its original response, which stated that [REDACTED] [REDACTED] *See* Ex. 16, Feb. 23, 2024 Ltr. from E. Snow to C. Zielinski at 2 (refusing to supplement response to Interrogatory No. 20); Ex. 25, Defendant’s Nov. 3, 2023 Supplemental Responses & Objections to Plaintiff’s Interrogatories at 8.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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[REDACTED]

[REDACTED] *See* Ex. 3, Zulqarnain Dep. Tr. at 32:23–33:10 [REDACTED]

[REDACTED] *id.* at 72:7–73:25 [REDACTED]

[REDACTED] *id.* at 121:23–25 ([REDACTED]

[REDACTED]);

id. at 153:3–23 ([REDACTED]

[REDACTED]). SaveOnSP’s documents confirm that [REDACTED]

[REDACTED]

[REDACTED] *See* Ex. 26, SOSP_1114963. SaveOnSP’s responses

do not account for this evidence or otherwise address [REDACTED]

[REDACTED], despite SaveOnSP’s commitment to investigating this issue.

Nor does SaveOnSP’s Response to Interrogatory No. 20 address with specificity any of

[REDACTED]

[REDACTED] *See, e.g.*, Ex. 1, SOSP_0307960 [REDACTED]

[REDACTED]

[REDACTED]”); Ex. 2, SOSP_0423114 (“[REDACTED]

[REDACTED]

[REDACTED]). It defies credulity

that [REDACTED]. As it agreed to

do, SaveOnSP must fully investigate the [REDACTED]

[REDACTED] and provide a comprehensive response to Interrogatory No. 20.

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II. SaveOnSP's Failure to Verify its Interrogatory Responses Violates the Federal Rules of Civil Procedure

Federal Rule of Civil Procedure 33(b)(5) requires any interrogatory response to be signed by “[t]he person who makes the answers[.]” Despite assurances that it would do so, SaveOnSP has failed to comply with this requirement nearly without exception: SaveOnSP has only verified two of its responses to JJHCS’s twenty Interrogatories, i.e., its responses to Interrogatory Nos. 4 and 16. *See* Ex. 27, Feb. 1, 2024 Email from M. Nussbaum (stating verification to be provided by Feb. 2, 2024); Ex. 12, Feb. 9, 2024 Ltr. from C. Zielinski to E. Snow (requesting prompt verification); Ex. 28, Feb. 20, 2024 Email from C. Zielinski to M. Nussbaum (same).

Specifically, SaveOnSP has provided no verification for its supplemental Responses to Interrogatory Nos. 2, 10, 17, and 19. *See* Ex. 4, Defendant’s Feb. 1, 2024 Supplemental Response & Objections to Plaintiff’s Interrogatories. For the remainder of JJHCS’s interrogatories for which SaveOnSP provided no supplement, SaveOnSP also failed to certify that its existing responses remain accurate and reflect all responsive information available through November 7, 2023. Instead, SaveOnSP submitted a letter from counsel that its “substantive responses [to those sixteen interrogatories] have not changed.” *See* Ex. 29, Feb. 1, 2024 Ltr. from E. Snow to G. LoBiondo. SaveOnSP’s attempt to substitute its own attorney’s representations for a corporate designee’s signed certification does not suffice under Rule 33(b)(5).

SaveOnSP has offered no explanation for this violation, nor is there any excuse for it. Not only is such a verification required under the Federal Rules, it is also particularly essential here, given the multiple inaccuracies JJHCS has identified in SaveOnSP’s responses, as detailed in Section I above. JJHCS must be able to rely on the veracity of SaveOnSP’s responses and explore

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any inconsistencies with a corporate designee. Accordingly, SaveOnSP must properly certify all existing and forthcoming responses.

* * *

After identifying the many deficiencies in SaveOnSP's interrogatory responses, JJHCS repeatedly requested that SaveOnSP conduct a renewed investigation into the veracity of those responses, consistent with applicable law, the Court's Order, and SaveOnSP's own agreement to do so. *See, e.g., Younes*, 312 F.R.D. at 705–07; *Joaquin*, 2019 WL 399136, at *3. SaveOnSP refused to update its existing responses to the Manufacturer Evasion Interrogatories to reflect all relevant information available to it. Four of SaveOnSP's supplemental responses to these Interrogatories are incomplete and inaccurate (Interrogatory Nos. 4, 16, 17, and 19); another two should have been supplemented but were not (Interrogatory Nos. 15 and 20). Finally, as to eighteen of its interrogatory responses—whether supplemented or not—SaveOnSP has violated Federal Rule of Civil Procedure 33(b)(5) by failing to provide a sworn verification.

For the foregoing reasons, we request that Your Honor compel SaveOnSP to conduct a reasonable investigation into all relevant information responsive to JJHCS's Manufacturer Evasion Interrogatories, provide complete and accurate supplemental responses to those Interrogatories as needed, and verify all responses. We appreciate Your Honor's consideration of this matter.

Respectfully submitted,

/s/ Harry Sandick
Harry Sandick

cc: Counsel for SaveOnSP

EXHIBIT 1

SEALED IN ITS ENTIRETY

EXHIBIT 2

SEALED IN ITS ENTIRETY

EXHIBIT 3

SEALED IN ITS ENTIRETY

Exhibit 4

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JOHNSON & JOHNSON
HEALTH CARE SYSTEMS INC.,

Plaintiff,

v.

SAVE ON SP, LLC,

Defendant.

Civ. A. No. 22-2632 (JMV) (CLW)

**DEFENDANT'S SUPPLEMENTAL
RESPONSES AND OBJECTIONS TO
PLAINTIFF'S INTERROGATORIES**

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Pursuant to Federal Rules of Civil Procedure 26 and 33, and Local Civil Rule 33.1, Defendant Save On SP, LLC (“SaveOnSP”), by and through its undersigned counsel, hereby supplements its Responses and Objections to Plaintiff Johnson & Johnson Health Care Systems Inc.’s (“JJHCS”) Interrogatory Nos. 2, 10, 17, and 19, contained in SaveOnSP’s previously-served Responses and Objections. These responses should be deemed to supplement and amend SaveOnSP’s disclosures under Rule 26(a) of the Federal Rules of Civil Procedure. If SaveOnSP learns that in some material respect its responses are incomplete or incorrect, SaveOnSP will supplement or correct them if the additional or corrective information has not otherwise been made known to JJHCS during the discovery process or in writing. Fed. R. Civ. P. 26(e)(1)(A). SaveOnSP’s responses to these Interrogatories are based on information available to it at the time it made them. SaveOnSP reserves the right to modify or supplement its responses.

GENERAL OBJECTIONS

1. JJHCS does not limit any of its Interrogatories to nonprivileged material. SaveOnSP objects to each Interrogatory to the extent that it seeks a disclosure of information which is subject to the attorney-client privilege, the work product doctrine, the common-interest privilege, or any other applicable privileges, immunities, or doctrines.

2. JJHCS does not limit any of its Interrogatories to information withing SaveOnSP’s possession, custody, or control. SaveOnSP objects to each Interrogatory to the extent that it seeks

disclosure of information that is not within SaveOnSP's possession, custody, or control that SaveOnSP can locate after a reasonable inquiry.

OBJECTIONS TO DEFINITIONS

3. SaveOnSP objects to the definition of "SaveOnSP" as including attorneys and accountants who may be outside of SaveOnSP's possession, custody, and control. SaveOnSP interprets the term "SaveOnSP" to mean SaveOnSP, LLC, and any and all predecessors and successors in interest, assignees, parents, subsidiaries, affiliates, divisions or departments, agents, representatives, directors, officers, employees, committees, and all persons or entities acting or purporting to act on behalf or under the control of SaveOnSP, LLC.

4. SaveOnSP objects to the definition of "SaveOnSP Program," as described in Complaint ¶¶ 9-17, because it mischaracterizes SaveOnSP's services. SaveOnSP will not use this definition.

5. SaveOnSP objects to the definition of "You" and "Your" to the same extent that it objects to the definition of "SaveOnSP."

6. SaveOnSP objects to the term "or other substance" in the definition of "Pharmaceutical Manufacturer" as vague and ambiguous. SaveOnSP will interpret the term "Pharmaceutical Manufacturer" to mean any entity that develops, produces, manufactures, creates, licenses, or distributes any pharmaceutical, drug, or medicine used in the treatment, cure, prevention or diagnosis of any illness, disease, disorder, or other condition.

OBJECTIONS TO INSTRUCTIONS

1. SaveOnSP objects to Instruction No. 23 in Plaintiff's First Set of Interrogatories to the extent that JJHCS attempts to impose requirements on SaveOnSP beyond those required by the Federal Rules of Civil Procedure, agreed to by the parties, or ordered by the Court.

2. SaveOnSP objects to Instruction No. 24 in Plaintiff's First Set of Interrogatories to the extent it purports to require SaveOnSP to answer Plaintiff's Interrogatories based on knowledge obtained from all available sources. SaveOnSP will answer Plaintiff's Interrogatories based on information in its possession, custody, and control available to it following a reasonable inquiry.

3. SaveOnSP objects to Instruction No. 25 in Plaintiff's First Set of Interrogatories to the extent that JJHCS attempts to impose requirements on SaveOnSP beyond those required by the Federal Rules of Civil Procedure, agreed to by the parties, or ordered by the Court.

4. SaveOnSP uses the term "Janssen Drugs" as defined in SaveOnSP's First Request for Production of Documents to JJHCS.

5. SaveOnSP objects to Instruction No. 24 in Plaintiff's Second Set of Interrogatories to the extent that JJHCS attempts to impose requirements on SaveOnSP beyond those required by the Federal Rules of Civil Procedure, agreed to by the parties, or ordered by the Court.

6. SaveOnSP objects to Instruction No. 25 in Plaintiff's Second Set of Interrogatories to the extent it purports to require Save-OnSP to answer Plaintiff's Interrogatories based on knowledge obtained from all available sources. SaveOnSP will answer Plaintiff's Interrogatories based on information in its possession, custody, and control available to it following a reasonable inquiry.

7. SaveOnSP objects to Instruction No. 26 in Plaintiff's Second Set of Interrogatories to the extent that JJHCS attempts to impose requirements on SaveOnSP beyond those required by the Federal Rules of Civil Procedure, agreed to by the parties, or ordered by the Court.

8. SaveOnSP objects to Instruction No. 16 in Plaintiff's Third Set of Interrogatories to the extent that JJHCS attempts to impose requirements on SaveOnSP beyond those required by the Federal Rules of Civil Procedure, agreed to by the parties, or ordered by the Court.

9. SaveOnSP objects to Instruction No. 17 in Plaintiff's Third Set of Interrogatories to the extent it purports to require SaveOnSP to answer Plaintiff's Interrogatories based on knowledge obtained from all available sources. SaveOnSP will answer Plaintiff's Interrogatories based on information in its possession, custody, and control available to it following a reasonable inquiry.

10. SaveOnSP objects to Instruction No. 18 in Plaintiff's Third Set of Interrogatories to the extent that JJHCS attempts to impose requirements on SaveOnSP beyond those required by the Federal Rules of Civil Procedure, agreed to by the parties, or ordered by the Court.

11. SaveOnSP objects to Instruction No. 19 in Plaintiff's Third Set of Interrogatories because it attempts to require SaveOnSP to provide information that is irrelevant to the claims and defenses in this action. SaveOnSP will provide information on its interactions with JJHCS and on its general business practices applicable to multiple Pharmaceutical Manufacturers that include such practices applicable to JJHCS.

Dated: February 1, 2024

By: /s/ E. Evans Wohlforth, Jr.
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*Attorneys for Defendant Save On SP,
LLC*

RESPONSE:

A series of horizontal black bars of varying lengths, representing redacted text. The bars are stacked vertically, with some having significant gaps before them, suggesting a list or a document with multiple lines of redacted content. The bars vary in length, with some spanning the full width of the page and others being much shorter. The gaps between the bars are of varying heights, creating a jagged, irregular pattern. The overall effect is one of complete obscuration of the underlying text.

7

INTERROGATORY NO. 10:

For each Plan Member who declined to participate in the SaveOnSP Program in connection with their purchase of Janssen medication, identify how much each one paid for each prescription of Janssen medication that he or she filled after he or she declined to participate in the SaveOnSP Program.

RESPONSE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Describe, in as much detail as possible, all measures that You have utilized to prevent any Pharmaceutical Manufacturer or manufacturers from being able to identify Your employees or representatives as being affiliated with SaveOnSP, or to make it more difficult for them to do so.

INTERROGATORY NO. 19:

RESPONSE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

SaveOnSP designates its response to this Interrogatory as Attorneys' Eyes Only under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

EXHIBIT 5

SEALED IN ITS ENTIRETY

EXHIBIT 6

SEALED IN ITS ENTIRETY

EXHIBIT 7

SEALED IN ITS ENTIRETY

EXHIBIT 8

SEALED IN ITS ENTIRETY

Exhibit 9

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JOHNSON & JOHNSON	:	
HEALTH CARE SYSTEMS INC.,	:	Civil Action No. 22-2632 (JMV) (CLW)
	:	
Plaintiff,	:	
vs.	:	PLAINTIFF’S FIRST
	:	SET OF INTERROGATORIES
SAVE ON SP, LLC,	:	
	:	
Defendant.	:	

Pursuant to Rules 26 and 33 of the Federal Rule of Civil Procedure, Plaintiff Johnson & Johnson Health Care Systems Inc. (“JJHCS”) directs the following Interrogatories to Defendant Save On SP, LLC (“SaveOnSP”) and requests that within 30 days after service of these Interrogatories (or such earlier time as the parties may agree or the Court may order) that SaveOnSP provide a response to each Interrogatory in writing and under oath.

1. “Action” means the above-captioned matter, *Johnson & Johnson Health Care Systems Inc. v. Save On SP, LLC*, No. 22-CV-2632, currently pending in the United States

District Court for the District of New Jersey.

2. “CarePath” means the Janssen patient assistance program providing support services for patients using medications researched, developed, and marketed by the pharmaceutical companies of Johnson & Johnson, including Janssen Biotech Inc., Janssen Pharmaceuticals, Inc, Janssen Products, LP, and Actelion Pharmaceuticals U.S., Inc. (collectively, “Janssen”).

3. “Co-insurance” means a fixed percentage of the cost for a given drug for which a Plan Member is responsible when filling a prescription.

4. “Communication” means any written, oral, or electronic exchange or transmission of information by any means, including face-to-face conversation, in-person meeting, mail, telephone, electronic mail, facsimile, text message, instant message, social media, and the Internet.

5. “Complaint” means JJHCS’s May 4, 2022 complaint [ECF No. 1] or any subsequently amended Complaint in this Action.

6. “Co-payment” means a fixed dollar amount for which a Plan Member is responsible when filling a prescription.

7. “Document” is used in the broadest sense consistent with Rule 34(a) of the Federal Rules of Civil Procedure. The term includes, without limitation, any written, recorded, transcribed, taped, photographic or graphic matter, any electronically, magnetically or digitally stored information, including, without limitation, Communications, call notes, voice mail, video or audio recordings, electronic mail, software, source code, object code or hard or floppy disc files, any other tangible things, and all drafts or copies of any of the foregoing that are different in any way from the original.

8. “Entity” means any legal entity including, without limitation, a limited liability company, corporation, trust, general partnership, limited partnership, sole proprietorship, professional corporation, limited liability partnership, professional association, joint venture, non-profit organization, memberships, trust, living trust, or testamentary trust.

9. “Express Scripts” means pharmacy benefits manager Express Scripts, Inc., and any and all predecessors and successors in interest, agents, representatives, directors, officers, employees, committees, and all persons or entities acting or purporting to act on behalf or under the control of Express Scripts, Inc.

10. “JJHCS” means Johnson & Johnson Health Care Systems Inc. and affiliates Janssen Biotech, Inc., Janssen Oncology, Inc., Janssen Research & Development, LLC, Janssen Pharmaceuticals, Inc., Janssen Products, LP, Actelion Pharmaceuticals U.S., Inc., Janssen BioPharma LLC, Janssen Research & Development LLC, and Johnson & Johnson.

11. “Payor” means any Entity that reimburses in whole or in part for the administration or sale of a pharmaceutical or biologic product, including government agencies, private insurers, self-funded health plans, and health and welfare funds.

12. “Person” means (a) natural persons; (b) legal entities, including but not limited to corporations, partnerships, firms, associations, professional corporations and proprietorships; and (c) government bodies or agencies.

13. “Plan Member” shall mean any beneficiary of, or person enrolled in, a health insurance plan, pharmaceutical benefits plan, or prescription coverage provided by a Payor.

14. “Relating to,” “relate to,” “relates to,” “related to,” “relating to,” “referring to,” and “concerning” mean relating to, referring to, describing, referencing, reflecting, concerning, considering, evidencing, constituting, discussing, supporting, identifying, pertaining to,

containing, embodying, analyzing, evaluating, studying, recording, showing, memorializing, reporting on, commenting on, mentioning, reviewing in conjunction with, setting forth, contradicting, refuting, supporting, recommending, or in any way logically or factually connected with the matter discussed, in whole or in part.

15. “SaveOnSP” means Save On SP, LLC, and any and all predecessors and successors in interest, parents, subsidiaries, affiliates, divisions or departments, agents, representatives, directors, officers, employees, committees, attorneys, accountants, and all persons or entities acting or purporting to act on behalf or under the control of SaveOnSP.

16. “SaveOnSP Program” means the conduct as described in the Complaint at ¶¶ 9–17 and ¶¶ 50-88.

17. “You” and “Your” mean SaveOnSP as defined in paragraph 15 above.

18. “And” and “or” are to be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive; use of a singular noun is to be construed to include the plural noun and use of a plural noun is to be construed to include the singular noun; the use of a verb in any tense is to be construed as the use of that verb in all other tenses whenever necessary to bring within the scope of the requested information that which might otherwise be construed to be outside its scope.

19. These definitions and instructions, and the interrogatories set forth below, apply equally to all forms of electronic Communications and information, including e-mails, and to all other tangible things.

20. To the extent a term is not defined herein, apply the definition for such term used in the Complaint.

21. These interrogatories shall be deemed to include any and all relevant information within Your possession, custody or control, including, without limitation, information located in the files of any and all past and present directors, officers, agents, representatives, employees, attorneys, and accountants of or retained by You.

22. If You have a good-faith objection to any interrogatory or any part thereof, the specific nature of the objection and whether it applies to the entire interrogatory or to a part of the interrogatory shall be stated. If there is an objection to any part of an interrogatory, then the part objected to should be identified and a response to the remaining unobjectionable part should be provided.

23. If You have a good-faith objection to any interrogatory or any part thereof based upon the attorney-client privilege, work product doctrine, or any other privilege or immunity, You shall provide an explanation of the basis therefore, including the specific nature of the privilege or immunity claimed and the detailed grounds for claiming such privilege or immunity.

24. Each interrogatory shall be answered on the basis of Your entire knowledge, from all sources, after an appropriate and good-faith inquiry has been made.

25. If documents are being produced in lieu of answers pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, identify, by document production number or similar means, the specific documents where in the answer is located and, unless apparent on the face of the document, state where within the document the answer can be found.

26. Unless the interrogatory requires otherwise, the time period for the interrogatories is January 1, 2017 through the present (the “Time Period”).

27. The interrogatories should be deemed continuing, and the responses to them must be supplemented pursuant to Rule 26(e) of the Federal Rules of Civil Procedure.

INTERROGATORIES

Interrogatory No. 1. Set forth the identities and role of the “[e]xperts in the healthcare and pharmaceutical industries [who] founded SaveOnSP,” as referenced on Your website.¹

Interrogatory No. 2. Describe, in as much detail as possible, Your involvement in the creation and use of the presentation found at <https://vimeo.com/513414094> (hereinafter, *SaveOnSP IPBC Video*) as discussed in the Complaint (*see, e.g.*, Compl. ¶¶ 9–11, 53–56).

Interrogatory No. 3. Describe how each Janssen medication included in the SaveOnSP Program was chosen for inclusion, including any and all criteria used to inform that decision.

Interrogatory No. 4. Describe, in as much detail as possible, the process by which SaveOnSP determines the size of the “inflated co-pay,”² or increase to Plan Members’ Co-payment or Co-insurance, including any and all criteria used to inform how that Co-payment or Co-insurance is determined.

Interrogatory No. 5. For each Janssen medication for which SaveOnSP has advised a Payor regarding the determination of the Co-payment or Co-insurance for that medication, identify the applicable Co-payment or Co-insurance for the medication both before and after SaveOnSP advised the Payor.

Interrogatory No. 6. Set forth a calculation by year of any and all “savings”³ SaveOnSP has generated by advising Payors to increase the Co-payment or Co-insurance for Janssen

¹ *About SaveOnSP*, SAVEONSP, <https://saveonsp.com/about/> (last visited Nov. 23, 2022).

² *See SaveOnSP IPBC Video* at 19:07.

³ *See SaveOnSP IPBC Video* at 49:26 (explaining that “in order for us to leverage the *savings*, the member has to actively enroll in copay assistance. That’s where the *savings* comes from.”)

medications, including breakdowns showing the entities that received the savings and the amounts received by SaveOnSP for generating those savings.

Interrogatory No. 7. Identify the name and address of each Payor SaveOnSP has advised regarding the Co-payment or Co-insurance of any Janssen medication, including the earliest date on which that advice was provided.

Interrogatory No. 8. Describe, in as much detail as possible, the processes and methods by which the SaveOnSP Program employs a “[p]oint of sale claim rejection” to “facilitate warm transfer of member to SaveOnSP.”⁴

Interrogatory No. 9. Describe, in as much detail as possible, the processes and methods by which the SaveOnSP Program employs a “tertiary biller” to pay a Plan Member’s \$5 or \$10 out-of-pocket responsibility, which is “really SaveOn behind the scenes.”⁵

Interrogatory No. 10. For each Plan Member who declined to participate in the SaveOnSP Program in connection with their purchase of Janssen medication, identify how much each one paid for each prescription of Janssen medication that he or she filled after he or she declined to participate in the SaveOnSP Program.

Interrogatory No. 11. In cases where (i) a Plan Member uses the entire annual allotment of CarePath funds for a given Janssen medication after enrolling in the SaveOnSP Program and (ii) the Plan Member subsequently switches to insurance coverage under a new Payor that does not participate in the SaveOnSP Program before the year ends, describe to what extent SaveOnSP

⁴ See Human Resources Committee Meeting, VILLAGE OF LINDENHURST ILLINOIS, at 69 (Mar. 11, 2021), https://www.lindenhurstil.org/egov/documents/1615238827_33717.pdf.

⁵ See *SaveOnSP IPBC Video* at 20:53.

ensures that the Plan Member continues to pay \$0 for their Janssen medication through the end of the year.

Interrogatory No. 12. Describe, in as much detail as possible, how SaveOnSP “monitor[s] participants’ accounts,” as referenced on page 7 of the Memorandum of Law in Support of Defendant’s Motion to Dismiss filed in this Action at ECF. No. 31-1, including the categories of information SaveOnSP monitors.

Dated: November 23, 2022

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By: s/ Jeffrey J. Greenbaum
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Exhibit 10

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JOHNSON & JOHNSON	:	
HEALTH CARE SYSTEMS INC.,	:	Civil Action No. 22-2632 (JMV) (CLW)
	:	
Plaintiff,	:	
vs.	:	PLAINTIFF’S SECOND
	:	SET OF INTERROGATORIES
SAVE ON SP, LLC,	:	
	:	
Defendant.	:	

Pursuant to Rules 26 and 33 of the Federal Rule of Civil Procedure, Plaintiff Johnson & Johnson Health Care Systems Inc. (“JJHCS”) directs the following Interrogatories to Defendant Save On SP, LLC (“SaveOnSP”) and requests that within 30 days after service of these Interrogatories (or such earlier time as the parties may agree or the Court may order) that SaveOnSP provide a response to each Interrogatory in writing and under oath.

1. “Accredo” means specialty pharmacy Accredo Health Group, Inc., and any and all predecessors and successors in interest, divisions or departments, agents, representatives,

directors, officers, employees, committees, and all persons or entities acting or purporting to act on behalf or under the control of Accredo Health Group, Inc.

2. “Action” means the above-captioned matter, *Johnson & Johnson Health Care Systems Inc. v. Save On SP, LLC*, No. 22-CV-2632, currently pending in the United States District Court for the District of New Jersey.

3. “CarePath” means the Janssen patient assistance program providing support services for patients using medications researched, developed, and marketed by the pharmaceutical companies of Johnson & Johnson, including Janssen Biotech Inc., Janssen Pharmaceuticals, Inc, Janssen Products, LP, and Actelion Pharmaceuticals U.S., Inc. (collectively, “Janssen”).

4. “Co-insurance” means a fixed percentage of the cost for a given drug for which a Plan Member is responsible when filling a prescription.

5. “Communication” means any written, oral, or electronic exchange or transmission of information by any means, including face-to-face conversation, in-person meeting, mail, telephone, electronic mail, facsimile, text message, instant message, social media, and the Internet.

6. “Complaint” means JJHCS’s May 4, 2022 complaint [ECF No. 1] or any subsequently amended Complaint in this Action.

7. “Co-payment” means a fixed dollar amount for which a Plan Member is responsible when filling a prescription.

8. “Document” is used in the broadest sense consistent with Rule 34(a) of the Federal Rules of Civil Procedure. The term includes, without limitation, any written, recorded, transcribed, taped, photographic or graphic matter, any electronically, magnetically or digitally

stored information, including, without limitation, Communications, call notes, voice mail, video or audio recordings, electronic mail, software, source code, object code or hard or floppy disc files, any other tangible things, and all drafts or copies of any of the foregoing that are different in any way from the original.

9. “Entity” means any legal entity including, without limitation, a limited liability company, corporation, trust, general partnership, limited partnership, sole proprietorship, professional corporation, limited liability partnership, professional association, joint venture, non-profit organization, memberships, trust, living trust, or testamentary trust.

10. “Express Scripts” means pharmacy benefits manager Express Scripts, Inc., and any and all predecessors and successors in interest, agents, representatives, directors, officers, employees, committees, and all persons or entities acting or purporting to act on behalf or under the control of Express Scripts, Inc.

11. “JJHCS” means Johnson & Johnson Health Care Systems Inc. and affiliates Janssen Biotech, Inc., Janssen Oncology, Inc., Janssen Research & Development, LLC, Janssen Pharmaceuticals, Inc, Janssen Products, LP, Actelion Pharmaceuticals U.S., Inc., Janssen BioPharma LLC, Janssen Research & Development LLC, and Johnson & Johnson.

12. “Payor” means any Entity that reimburses in whole or in part for the administration or sale of a pharmaceutical or biologic product, including government agencies, private insurers, self-funded health plans, and health and welfare funds.

13. “Person” means (a) natural persons; (b) legal entities, including but not limited to corporations, partnerships, firms, associations, professional corporations and proprietorships; and (c) government bodies or agencies.

14. “Plan Member” shall mean any beneficiary of, or person enrolled in, a health

insurance plan, pharmaceutical benefits plan, or prescription coverage provided by a Payor.

15. “Relating to,” “relate to,” “relates to,” “related to,” “relating to,” “referring to,” and “concerning” mean relating to, referring to, describing, referencing, reflecting, concerning, considering, evidencing, constituting, discussing, supporting, identifying, pertaining to, containing, embodying, analyzing, evaluating, studying, recording, showing, memorializing, reporting on, commenting on, mentioning, reviewing in conjunction with, setting forth, contradicting, refuting, supporting, recommending, or in any way logically or factually connected with the matter discussed, in whole or in part.

16. “SaveOnSP” means Save On SP, LLC, and any and all predecessors and successors in interest, parents, subsidiaries, affiliates, divisions or departments, agents, representatives, directors, officers, employees, committees, attorneys, accountants, and all persons or entities acting or purporting to act on behalf or under the control of SaveOnSP.

17. “SaveOnSP Program” means the conduct as described in the Complaint at ¶¶ 9–17 and ¶¶ 50-88.

18. “You” and “Your” mean SaveOnSP as defined in paragraph 15 above.

19. “And” and “or” are to be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive; use of a singular noun is to be construed to include the plural noun and use of a plural noun is to be construed to include the singular noun; the use of a verb in any tense is to be construed as the use of that verb in all other tenses whenever necessary to bring within the scope of the requested information that which might otherwise be construed to be outside its scope.

20. These definitions and instructions, and the interrogatories set forth below, apply equally to all forms of electronic Communications and information, including e-mails, and to all other tangible things.

21. To the extent a term is not defined herein, apply the definition for such term used in the Complaint.

22. These interrogatories shall be deemed to include any and all relevant information within Your possession, custody or control, including, without limitation, information located in the files of any and all past and present directors, officers, agents, representatives, employees, attorneys, and accountants of or retained by You.

23. If You have a good-faith objection to any interrogatory or any part thereof, the specific nature of the objection and whether it applies to the entire interrogatory or to a part of the interrogatory shall be stated. If there is an objection to any part of an interrogatory, then the part objected to should be identified and a response to the remaining unobjectionable part should be provided.

24. If You have a good-faith objection to any interrogatory or any part thereof based upon the attorney-client privilege, work product doctrine, or any other privilege or immunity, You shall provide an explanation of the basis therefore, including the specific nature of the privilege or immunity claimed and the detailed grounds for claiming such privilege or immunity.

25. Each interrogatory shall be answered on the basis of Your entire knowledge, from all sources, after an appropriate and good-faith inquiry has been made.

26. If documents are being produced in lieu of answers pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, identify, by document production number or similar means, the

specific documents where in the answer is located and, unless apparent on the face of the document, state where within the document the answer can be found.

27. Unless the interrogatory requires otherwise, the time period for the interrogatories is January 1, 2017 through the present (the “Time Period”).

28. The interrogatories should be deemed continuing, and the responses to them must be supplemented pursuant to Rule 26(e) of the Federal Rules of Civil Procedure.

INTERROGATORIES

Interrogatory No. 13. Describe what advice or other information SaveOnSP has provided to Payors regarding whether Payors can continue to include Janssen Drugs in the SaveOnSP Program after any changes to the CarePath terms and conditions, including with regard to the December 2021 changes to the CarePath terms and conditions.¹

Interrogatory No. 14. Identify any Entity or individual who has entered into any agreement, or otherwise has any obligation, to advance legal fees incurred by SaveOnSP in this action or to indemnify SaveOnSP in this action for its legal fees, for any damages, or otherwise.

Interrogatory No. 15. Describe whether and under what circumstances You have advised any Payors to eliminate or alter coverage for certain pharmaceuticals and to arrange for Plan Members to obtain those pharmaceuticals from any source other than Accredo, including (without limitation) independent nonprofit organizations, such as the Johnson & Johnson Patient Assistance Foundation, Inc.

Dated: February 7, 2023

¹ See Compl. ¶¶ 102-04 (describing December 2021 change to CarePath terms and conditions for Stelara and Tremfya).

Exhibit 11

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Attorneys for Plaintiff
Johnson & Johnson Health Care Systems Inc.

UNITED STATES DISTRICT COURT
 DISTRICT OF NEW JERSEY

JOHNSON & JOHNSON	:	
HEALTH CARE SYSTEMS INC.,	:	Civil Action No. 22-2632 (JMV) (CLW)
	:	
Plaintiff,	:	
vs.	:	PLAINTIFF’S THIRD
	:	SET OF INTERROGATORIES
SAVE ON SP, LLC,	:	
	:	
Defendant.	:	

PLAINTIFF’S THIRD SET OF INTERROGATORIES

Pursuant to Rules 26 and 33 of the Federal Rule of Civil Procedure, Plaintiff Johnson & Johnson Health Care Systems Inc. (“JJHCS”) directs the following Interrogatories to Defendant Save On SP, LLC (“SaveOnSP”) and requests that within 30 days after service of these Interrogatories (or such earlier time as the parties may agree or the Court may order) that SaveOnSP provide a response to each Interrogatory in writing and under oath.

DEFINITIONS AND INSTRUCTIONS

1. “Action” means the above-captioned matter, *Johnson & Johnson Health Care Systems Inc. v. Save On SP, LLC*, No. 22-CV-2632, currently pending in the United States District Court for the District of New Jersey.

2. “Communication” means any written, oral, or electronic exchange or transmission of information by any means, including face-to-face conversation, in-person meeting, mail, telephone, electronic mail, facsimile, text message, instant message, social media, and the Internet.

3. “Complaint” means JJHCS’s May 4, 2022 complaint [ECF No. 1] or any subsequently amended Complaint in this Action.

4. “Document” is used in the broadest sense consistent with Rule 34(a) of the Federal Rules of Civil Procedure. The term includes, without limitation, any written, recorded, transcribed, taped, photographic or graphic matter, any electronically, magnetically or digitally stored information, including, without limitation, Communications, call notes, voice mail, video or audio recordings, electronic mail, software, source code, object code or hard or floppy disc files, any other tangible things, and all drafts or copies of any of the foregoing that are different in any way from the original.

5. “Pharmaceutical Manufacturer” means any entity that develops, produces, manufactures, creates, licenses or distributes any pharmaceutical, drug, medicine or other substance used in the treatment, cure, prevention or diagnosis of any illness, disease, disorder or other condition, and includes any such entity’s predecessors and successors in interest, parents, subsidiaries, affiliates, divisions or departments, agents, representatives, directors, officers, employees, committees, attorneys, or accountants.

6. “SaveOnSP” means Save On SP, LLC, and any and all predecessors and successors in interest, parents, subsidiaries, affiliates, divisions or departments, agents, representatives,

directors, officers, employees, committees, attorneys, accountants, and all persons or entities acting or purporting to act on behalf or under the control of SaveOnSP.

7. “SaveOnSP Program” means the conduct as described in the Complaint at ¶¶ 9–17 and ¶¶ 50–88.

8. Utilized means put to use, used, practiced, applied, brought to bear, exercised and deployed; and includes attempts to utilize regardless of whether such attempts were successful.

9. “You” and “Your” mean SaveOnSP as defined in paragraph 7 above.

10. “And” and “or” are to be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive; use of a singular noun is to be construed to include the plural noun and use of a plural noun is to be construed to include the singular noun; the use of a verb in any tense is to be construed as the use of that verb in all other tenses whenever necessary to bring within the scope of the requested information that which might otherwise be construed to be outside its scope.

11. The term “including” means including, but not limited to.

12. These definitions and instructions, and the interrogatories set forth below, apply equally to all forms of electronic Communications and information, including e-mails, and to all other tangible things.

13. To the extent a term is not defined herein, apply the definition for such term used in the Complaint.

14. These interrogatories shall be deemed to include any and all relevant information within Your possession, custody or control, including, without limitation, information located in the files of any and all past and present directors, officers, agents, representatives, employees, attorneys, and accountants of or retained by You.

15. If You have a good-faith objection to any interrogatory or any part thereof, the specific nature of the objection and whether it applies to the entire interrogatory or to a part of the interrogatory shall be stated. If there is an objection to any part of an interrogatory, then the part objected to should be identified and a response to the remaining unobjectionable part should be provided.

16. If You have a good-faith objection to any interrogatory or any part thereof based upon the attorney-client privilege, work product doctrine, or any other privilege or immunity, You shall provide an explanation of the basis therefore, including the specific nature of the privilege or immunity claimed and the detailed grounds for claiming such privilege or immunity.

17. Each interrogatory shall be answered on the basis of Your entire knowledge, from all sources, after an appropriate and good-faith inquiry has been made.

18. If documents are being produced in lieu of answers pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, identify, by document production number or similar means, the specific documents where in the answer is located and, unless apparent on the face of the document, state where within the document the answer can be found.

19. When answering these interrogatories, do not limit your response to facts involving JJHCS. Include all responsive facts relevant to any Pharmaceutical Manufacturer as well as those that are applicable to all manufacturers or groups of manufacturers.

20. Unless the interrogatory requires otherwise, the time period for the interrogatories is April 1, 2016 through the present (the “Time Period”).

21. The interrogatories should be deemed continuing, and the responses to them must be supplemented pursuant to Rule 26(e) of the Federal Rules of Civil Procedure.

INTERROGATORIES

Interrogatory No. 16. Describe, in as much detail as possible, all measures that You have utilized to prevent any Pharmaceutical Manufacturer or manufacturers from being able to identify patients that are enrolled in the SaveOnSP Program, or to make it more difficult for them to do so.

Interrogatory No. 17. Describe, in as much detail as possible, all measures that You have utilized to prevent any Pharmaceutical Manufacturer or manufacturers from being able to identify Your employees or representatives as being affiliated with SaveOnSP, or to make it more difficult for them to do so.

Interrogatory No. 18. Describe, in as much detail as possible, all measures that You have utilized to prevent Your current or former employees from communicating with JJHCS or others with regard to SaveOnSP's conduct at issue in this lawsuit, or to make it more difficult for them to do so.

Interrogatory No. 19. Describe, in as much detail as possible, all instances where and all circumstances under which You have lied to, misled, or deceived Pharmaceutical Manufacturers, including all instances in which Your representatives or employees have misrepresented their identities or concealed their affiliation with SaveOnSP when communicating with Pharmaceutical Manufacturers.

Interrogatory No. 20. Describe, in as much detail as possible, each instance where and all circumstances under which You have instructed Your representatives or employees to lie to, mislead, or deceive Pharmaceutical Manufacturers including with regard to their affiliation with SaveOnSP.

Dated: August 18, 2023

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By: /s/ Jeffrey J. Greenbaum
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Exhibit 12



February 9, 2024

Caroline Zielinski
(212) 336-2206

By Email

Elizabeth Snow, Esq.
Selendy Gay PLLC
1290 Avenue of the Americas
New York, NY 10104

Re: SaveOnSP's Supplemental Interrogatory Responses
Johnson & Johnson Health Care Systems, Inc. v. Save On SP, LLC
Case No. 2:22-cv-02632 (JKS) (CLW)

Dear Elizabeth:

We write to address a number of deficiencies with respect to SaveOnSP's supplemental responses to JJHCS's interrogatories.

I. Global Issues

As you are aware, the Court ordered that SaveOnSP "update [it]s discovery responses . . . ***without limitation***," through November 7, 2023. *See* Dkt. No. 173 (emphasis supplied). Consistent with Judge Wolfson's Order at the December 21, 2023 conference, SaveOnSP confirmed that it would refresh its interrogatory responses through November 7, 2023 by January 31, 2024. *See* Jan. 22, 2024 Ltr. from J. Long to E. Snow at 1. On February 1, 2024, SaveOnSP served its purported update which contained supplemental responses for only four of JJHCS's twenty interrogatories (Interrogatory Nos. 2, 10, 17, and 19)—a far cry from the Court's requirement that SaveOnSP supplement its discovery responses "without limitation."

As to the remaining sixteen interrogatories, SaveOnSP did not provide updated responses. Instead, counsel for SaveOnSP submitted a letter indicating that "SaveOn's substantive responses [to those interrogatories] have not changed." *See* Feb. 1, 2024 Ltr. from E. Snow to G. LoBiondo at 1. This is unacceptable. Federal Rule of Civil Procedure 33(b)(5) requires that any interrogatory response ***must*** be signed by "[t]he person who makes the answers[.]" *Id.* Counsel for SaveOnSP cannot substitute its own attorney representations for a corporate designee's signed certification. SaveOnSP's failure to update sixteen of its interrogatory responses, as required by the Court and Rule 26(e), is especially concerning given that discovery has revealed that several of SaveOnSP's existing responses are inaccurate or incomplete, as detailed more fully below.

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February 9, 2024
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Accordingly, please immediately conduct a reasonable investigation to ensure that no additional supplementation is required as to the sixteen unchanged responses. In the event SaveOnSP concludes, following this reasonable investigation, that none of the remaining interrogatory responses require revision, please provide a certified response to that effect—as JJHCS did in its own January 31, 2024 supplemental responses. Of course, in the event SaveOnSP concludes additional supplementation is required, we expect that you will do so promptly, and in any event, no later than February 22, 2024.

In addition, in violation of Federal Rule of Civil Procedure 33(b)(5), SaveOnSP also has yet to verify its supplemental responses, despite its statement that it would provide such a verification by February 2, 2024. *See* Feb. 1, 2024 Email from M. Nussbaum. Please rectify this issue no later than February 16, 2024.

Below, we detail additional specific concerns that we have identified.

II. Interrogatory No. 4

SaveOnSP failed to supplement its response to JJHCS’s Interrogatory No. 4, which inquired as to the “process by which SaveOnSP determines the size of the ‘inflated co-pay,’ or increase to Plan Members’ Co-payment or Co-insurance, including any and all criteria used to inform how that Co-payment or Co-insurance is determined.” In response, SaveOnSP described that it: [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] *See* Defendant’s Dec. 23, 2022 Responses & Objections to Plaintiff’s First Set of Interrogatories at 8-9.

SaveOnSP’s document production calls into question the accuracy of this response. Specifically, SaveOnSP appears to employ additional processes to determine the copayment and coinsurance amounts at issue. For example, [REDACTED]

[REDACTED]
[REDACTED]s. *See* SOSP_0521309. [REDACTED]
[REDACTED] a
[REDACTED] *See* SOSP_0943232. Please confirm that by February 22, 2024, SaveOnSP will supplement its response to account for these methods or otherwise explain why you believe they are not responsive. Please also conduct a reasonable investigation to ensure that SaveOnSP did not employ any other processes to determine patients’ copayment amounts and update your response to Interrogatory No. 4 by February 22, 2024 accordingly.

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III. Interrogatory No. 15

SaveOnSP also did not update its response to Interrogatory No. 15, which inquired into the circumstances under which SaveOnSP advised payors to eliminate or alter coverage for certain drugs and to arrange for Plan Members to obtain those from other sources, including independent nonprofit organizations. After first refusing to answer this Interrogatory altogether, SaveOnSP stated in a supplemental response dated May 5, 2023 that [REDACTED]

As you know, Interrogatory No. 15 was the subject of extensive discovery correspondence. Specifically, in response to our questions, SaveOnSP repeatedly reaffirmed the accuracy of its supplemental May 5 response to Interrogatory No. 15. *See, e.g.*, June 13, 2023 Ltr. from A. Dunlap to H. Sandick at 3 (“We confirm our May 5 response is accurate.”); July 7, 2023 Ltr. from G. LoBiondo to M. Nelson at 1; July 24, 2023 Ltr. from M. Nelson to G. LoBiondo.

Notwithstanding SaveOnSP’s sworn statements and its counsel’s representations regarding this issue, JJHCS has identified documents in SaveOnSP’s production that suggest that [REDACTED]

See, e.g., SOSP_1031686 ([REDACTED])

[REDACTED] In addition, SaveOnSP appears to [REDACTED]

[REDACTED] *See* MIGH000014 at 5 [REDACTED]

[REDACTED]; Defendant’s May 5, 2023 Responses & Objections to Plaintiff’s Second Set of Interrogatories at 7 (stating that [REDACTED]).

In light of these documents, please immediately conduct a renewed investigation to determine whether SaveOnSP’s prior sworn representations [REDACTED] remain accurate and confirm that you have done so by February 16, 2024. In the event supplementation is required, please update your response to Interrogatory No. 15 by February 22, 2024.

IV. Interrogatory No. 16

SaveOnSP also failed to supplement its response to Interrogatory No. 16, which requests information about “all measures” SaveonSP has “utilized to prevent any Pharmaceutical Manufacturer or manufacturers from being able to identify patients that are enrolled in the SaveOnSP Program, or to make it more difficult for them to do so.”

We have identified two issues with SaveOnSP’s response as it currently stands. *See* Defendant’s Nov. 6, 2023 Supplemental Responses & Objections to Plaintiff’s Third Set of Interrogatories at 6-7. First, in its response, SaveOnSP stated that [REDACTED]

[REDACTED] *Id.* at 6 (emphasis supplied).

SaveOnSP’s document production suggests that this statement is inaccurate. *See, e.g.*, SOSP_0694247 (describing t [REDACTED])

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[REDACTED]); SOSP_272882 (explaining that [REDACTED]
[REDACTED]
[REDACTED]).

Second, despite its agreement to do so, SaveOnSP has failed to update its response to Interrogatory No. 16 to include [REDACTED]
[REDACTED]. See Oct. 19, 2023 Email from E. Snow to S. Arrow (“SaveOnSP will provide its supplemental responses, [REDACTED]
Although SaveOnSP agreed in mid-October to supplement its responses to JJHCS’s Third Set of Interrogatories, inclusive of Interrogatory No. 16, SaveOnSP has failed to provide these updates—and in fact, made no substantive updates whatsoever to Interrogatory No. 16 following its agreement to do so. *Id.* Accordingly, SaveOnSP must investigate and identify “all measures” utilized to prevent manufacturers from identifying SaveOnSP-affiliated patients and specify which measures were used against which manufacturers and when.

Please confirm that by February 22, 2024, SaveOnSP will correct its response to Interrogatory No. 16 and supplement it to include all relevant information.

V. Interrogatory Nos. 17 and 19 – Inconsistencies

Interrogatory No. 17 requests information concerning the methods that SaveOnSP has “utilized to prevent any . . . manufacturers from being able to identify” SaveOnSP representatives. Interrogatory No. 19 requests information concerning the circumstances in which SaveOnSP representatives and employees have “lied to, misled, or deceived” manufacturers.

In response to Interrogatory Nos. 17 and 19, SaveOnSP’s supplemental responses both state: [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] Defendant’s Feb. 1, 2024 Supplemental Responses & Objections to Plaintiff’s Interrogatories at 9, 11. SaveOnSP’s responses to both Interrogatories then continues: [REDACTED]
[REDACTED]

[REDACTED] *Id.* These statements cannot both be true. Either [REDACTED]
[REDACTED] or [REDACTED]

SaveOnSP’s response to Interrogatory Nos. 17 and 19 reveals an additional inconsistency. [REDACTED]
[REDACTED]

[REDACTED]. See e.g., Zulqarnain Deposition Tr. (“Tr.”) 118:16–119:15 ([REDACTED]); 127:24–128:4 ([REDACTED] 138:15–139:9 ([REDACTED]); 148:17–129:7 ([REDACTED]). Although SaveOnSP disclosed in its supplemental responses to Interrogatory Nos. 17 and 19 that [REDACTED]
[REDACTED] it did not similarly disclose such practice in

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connection with [REDACTED]
[REDACTED] SaveOnSP must update its response accordingly.

By February 22, 2024, please correct SaveOnSP's responses to Interrogatory Nos. 17 and 19 to address this inconsistency and provide an accurate response.

VI. Interrogatory Nos. 17, 19, and 20 – Failure to Supplement

SaveOnSP also failed to supplement its responses to Interrogatory Nos. 17, 19, and 20 despite counsel's repeated assurances that it would do so [REDACTED]. *See, e.g.*, Jan. 9, 2024 Email from M. Nussbaum to G. LoBiondo; Jan. 17 Email from M. Nussbaum to G. LoBiondo. Specifically, counsel repeatedly represented that SaveOnSP would supplement its responses to these Interrogatories to reflect the results of its investigation into [REDACTED]. [REDACTED] Jan. 17, 2024 Email from M. Nussbaum to G. LoBiondo. SaveOnSP agreed to provide this supplementation as to each of Interrogatory Nos. 17, 19, and 20. *See id.* Yet, SaveOnSP failed to provide any updated response to Interrogatory No. 20 and its supplemental responses to Interrogatory Nos. 17 and 19 [REDACTED] despite your repeated commitment to providing this information. Please confirm that by February 22, 2024, SaveOnSP will update its responses to Interrogatory Nos. 17, 19, and 20 to address this issue.

SaveOnSP's responses to Interrogatory Nos. 17 and 19 are also incomplete for additional reasons. SaveOnSP supplemented its responses to indicate that, [REDACTED]. *See* Defendant's Feb. 1, 2024 Supplemental Responses & Objections to Plaintiff's Interrogatories at 9, 12. First, as described above, SaveOnSP must disclose [REDACTED]. Second, SaveOnSP, also failed to describe (1) whether any of [REDACTED]. [REDACTED] s. Moreover, discovery has revealed that [REDACTED]. For example, SaveOnSP's production indicates that [REDACTED]. *See* SOSP_0942343. SaveOnSP's supplemental responses do not reference [REDACTED].

To the extent SaveOnSP employees engaged in similar tactics—such as [REDACTED] must also be disclosed, consistent with SaveOnSP's representations that it would do so. *See* Oct. 19, 2023 Email from E. Snow to S. Arrow.

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By February 16, 2024, please confirm that you have conducted a reasonable investigation into [REDACTED]

Please also confirm that you will further supplement SaveOnSP's responses to Interrogatory Nos. 17, 19, and 20, as appropriate, to address these issues by February 22, 2024.

* * *

Please provide a response by February 16, 2024. JJHCS's review of SaveOnSP's responses and objections to JJHCS's interrogatories is continuing, and JJHCS reserves all rights.

Very truly yours,

/s/Caroline Zielinski
Caroline Zielinski

Exhibit 13

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JOHNSON & JOHNSON
HEALTH CARE SYSTEMS INC.,

Plaintiff,

v.

SAVE ON SP, LLC,

Defendant.

Civ. A. No. 22-2632 (JMV) (CLW)

**DEFENDANT'S RESPONSES AND
OBJECTIONS TO PLAINTIFF'S
FIRST SET OF INTERROGATORIES**

To: Jeffrey J. Greenbaum, Esq.
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*Attorneys for Plaintiff Johnson & Johnson
Health Care Systems Inc.*

Pursuant to Federal Rules of Civil Procedure 26 and 33, and Local Civil Rule 33.1, Defendant Save On SP, LLC (“SaveOnSP”), by and through its undersigned counsel, responds and objects to Plaintiff Johnson & Johnson Health Care Systems Inc.’s (“JJHCS”) First Set of Interrogatories, dated November 23, 2022 (the “Interrogatories”). These responses should be deemed to supplement and amend SaveOnSP’s disclosures under Rule 26(a) of the Federal Rules of Civil Procedure. If SaveOnSP learns that in some material respect its responses are incomplete or incorrect, SaveOnSP will supplement or correct them if the additional or corrective information has not otherwise been made known to JJHCS during the discovery process or in writing. Fed. R. Civ. P. 26(e)(1)(A). SaveOnSP’s responds to these Interrogatories are based on information available to it at the time it made them. SaveOnSP reserves the right to modify or supplement its responses.

GENERAL OBJECTIONS

1. JJHCS does not limit any of its Interrogatories to nonprivileged material. SaveOnSP objects to each Interrogatory to the extent that it seeks a disclosure of information which is subject to the attorney-client privilege, the work product doctrine, the common-interest privilege, or any other applicable privileges, immunities, or doctrines.

2. JJHCS does not limit any of its Interrogatories to information withing SaveOnSP’s possession, custody, or control. SaveOnSP objects to each Interrogatory to the extent that it seeks

disclosure of information that is not within SaveOnSP's possession, custody, or control that SaveOnSP can locate after a reasonable inquiry.

OBJECTIONS TO DEFINITIONS

3. SaveOnSP objects to the definition of "SaveOnSP" as including attorneys and accountants who may be outside of SaveOnSP's possession, custody, and control. SaveOnSP interprets the term "SaveOnSP" to mean SaveOnSP, and any and all predecessors and successors in interest, assignees, parents, subsidiaries, affiliates, divisions or departments, agents, representatives, directors, officers, employees, committees, and all persons or entities acting or purporting to act on behalf or under the control of SaveOnSP.

4. SaveOnSP objects to the definition of "SaveOnSP Program," as described in Complaint ¶¶ 9-17, because it mischaracterizes SaveOnSP's services. SaveOnSP will not use this definition.

5. SaveOnSP objects to the definition of "You" and "Your" to the same extent that it objects to the definition of "SaveOnSP."

OBJECTIONS TO INSTRUCTIONS

6. SaveOnSP objects to Instruction No. 23 in Plaintiff's First Set of Interrogatories to the extent that JJHCS attempts to impose requirements on SaveOnSP beyond those required by the Federal Rules of Civil Procedure, agreed to by the parties, or ordered by the Court.

7. SaveOnSP objects to Instruction No. 24 to the extent it purports to require SaveOnSP to answer Plaintiff's Interrogatories based on knowledge obtained from all available sources. SaveOnSP will answer Plaintiff's Interrogatories based on information in its possession, custody, and control available to it following a reasonable inquiry.

8. SaveOnSP objects to Instruction No. 25 in Plaintiff's First Set of Interrogatories to the extent that JJHCS attempts to impose requirements on SaveOnSP beyond those required by the Federal Rules of Civil Procedure, agreed to by the parties, or ordered by the Court.

9. SaveOnSP uses the term "Janssen Drugs" as defined in SaveOnSP's First Request for Production of Documents to JJHCS, dated November 11, 2022.

Dated: December 23, 2022

By: /s/ E. Evans Wohlforth, Jr.
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*Attorneys for Defendant Save On SP,
LLC*

RESPONSES TO PLAINTIFF’S FIRST SET OF INTERROGATORIES

INTERROGATORY NO. 1:

Set forth the identities and role of the “[e]xperts in the healthcare and pharmaceutical industries [who] founded SaveOnSP,” as referenced on Your website.¹

RESPONSE:

[REDACTED]

SaveOnSP designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF. No. 62.

¹ *About SaveOnSP*, SAVEONSP, <https://saveonsp.com/about/> (last visited Nov. 23, 2022).

INTERROGATORY NO. 2:

Describe, in as much detail as possible, Your involvement in the creation and use of the presentation found at <https://vimeo.com/513414094> (hereinafter, SaveOnSP IPBC Video) as discussed in the Complaint (see, e.g., Compl. ¶¶ 9–11, 53–56).

RESPONSE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SaveOnSP designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

INTERROGATORY NO. 3:

Describe how each Janssen medication included in the SaveOnSP Program was chosen for inclusion, including any and all criteria used to inform that decision.

[REDACTED]

SaveOnSP designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

INTERROGATORY NO. 5:

For each Janssen medication for which SaveOnSP has advised a Payor regarding the determination of the Co-payment or Co-insurance for that medication, identify the applicable Co-payment or Co-insurance for the medication both before and after SaveOnSP advised the Payor.

RESPONSE:

[REDACTED]

[REDACTED]

SaveOnSP designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

INTERROGATORY NO. 6:

Set forth a calculation by year of any and all “savings”³ SaveOnSP has generated by advising Payors to increase the Co-payment or Co-insurance for Janssen medications, including breakdowns showing the entities that received the savings and the amounts received by SaveOnSP for generating those savings.

RESPONSE:

SaveOnSP objects to the term “Janssen medication” as vague and ambiguous. SaveOnSP interprets the term “Janssen medications” to mean Janssen Drugs.

SaveOnSP objects to the term “savings” as undefined and vague and ambiguous. SaveOnSP interprets “savings” to mean health plans’ reduced expenditures on Janssen drugs resulting from their receipt of SaveOnSP’s services.

³ See *SaveOnSP IPBC Video* at 49:26 (explaining that “in order for us to leverage the *savings*, the member has to actively enroll in copay assistance. That’s where the *savings* comes from.”)

SaveOnSP objects to the term “entities that received the savings” as undefined and vague and ambiguous. SaveOnSP interprets “entities that received the savings” to mean the health plans with which it contracts.

SaveOnSP objects to the term “amounts received by SaveOnSP for generating those savings” as undefined and vague and ambiguous. SaveOnSP interprets that term to mean the fees that SaveOnSP receives from health plans for its services.

SaveOnSP objects to producing the identities of health plans that have contracted with SaveOnSP because such information is not sufficiently relevant and necessary to JJHCS’s case to outweigh the harm that disclosure of that information could cause to SaveOnSP, plan participants, and health plans. SaveOnSP will not produce such information.

SaveOnSP will produce data sufficient to show health plans’ reduced expenditures on Janssen drugs resulting from their receipt of SaveOnSP’s services and the fees that SaveOnSP receives from health plans for its services relating to Janssen Drugs. Fed. R. Civ. P. 33(d). SaveOnSP will anonymize references to the identities of health plans that have contracted with SaveOnSP in such documents.

INTERROGATORY NO. 7:

Identify the name and address of each Payor SaveOnSP has advised regarding the Co-payment or Co-insurance of any Janssen medication, including the earliest date on which that advice was provided.

RESPONSE:

SaveOnSP objects to the term “has advised” as vague and ambiguous. SaveOnSP interprets this Interrogatory to seek information regarding Payors that have contracted with SaveOnSP.

SaveOnSP objects to the term “any Janssen medication” as vague and ambiguous. SaveOnSP interprets the term “any Janssen medication” to mean Janssen Drugs.

SaveOnSP objects to producing the identities of Payors that have contracted with Save-OnSP because such information is not sufficiently relevant and necessary to JJHCS's case to outweigh the harm that disclosure of that information could cause to SaveOnSP, plan participants, and health plans.

SaveOnSP objects to this Request as not proportional to the needs of the case to the extent that it seeks the identities of every health plan advised by SaveOnSP. The burden and expense of producing all such information outweighs the marginal relevance of the material requested.

SaveOnSP will not respond to this Interrogatory.

INTERROGATORY NO. 8:

Describe, in as much detail as possible, the processes and methods by which the SaveOnSP Program employs a "[p]oint of sale claim rejection" to "facilitate warm transfer of member to SaveOnSP."⁴

RESPONSE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

⁴ See Human Resources Committee Meeting, VILLAGE OF LINDENHURST ILLINOIS, at 69 (Mar. 11, 2021), https://www.lindenhurstil.org/egov/documents/1615238827_33717.pdf.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SaveOnSP designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

INTERROGATORY NO. 9:

Describe, in as much detail as possible, the processes and methods by which the SaveOnSP Program employs a “tertiary biller” to pay a Plan Member’s \$5 or \$10 out-of-pocket responsibility, which is “really SaveOn behind the scenes.”⁵

RESPONSE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

⁵ See *SaveOnSP IPBC Video* at 20:53.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SaveOnSP designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

INTERROGATORY NO. 10:

For each Plan Member who declined to participate in the SaveOnSP Program in connection with their purchase of Janssen medication, identify how much each one paid for each prescription of Janssen medication that he or she filled after he or she declined to participate in the SaveOnSP Program.

RESPONSE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SaveOnSP designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

INTERROGATORY NO. 11:

In cases where (i) a Plan Member uses the entire annual allotment of CarePath funds for a given Janssen medication after enrolling in the SaveOnSP Program and (ii) the Plan Member subsequently switches to insurance coverage under a new Payor that does not participate in the SaveOnSP Program before the year ends, describe to what extent SaveOnSP ensures that the Plan Member continues to pay \$0 for their Janssen medication through the end of the year.

RESPONSE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SaveOnSP designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

INTERROGATORY NO. 12:

Describe, in as much detail as possible, how [REDACTED]
[REDACTED] as referenced on page 7 of the Memorandum of Law in Support of Defendant's Motion to Dismiss filed in this Action at ECF. No. 31-1, including the [REDACTED]
[REDACTED].

RESPONSE:

SaveOnSP responds as follows: [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

SaveOnSP designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

CERTIFICATION OF SAVE ON SP, LLC

I, Jody Miller, am the President of Save On SP, LLC ("SaveOnSP"). I am authorized to submit this certification on behalf of SaveOnSP. I certify that the foregoing answers made by me to these Interrogatories are true. I am aware that if any of the foregoing answers are willfully false, SaveOnSP and I are subject to punishment. I certify that in responding to the foregoing Interrogatories, I have furnished all information available to SaveOnSP, its agents, employees and attorneys. As to those answers which are not within my personal knowledge, I certify that I have provided the name and address of every person from whom such information was received or, where the source of such information is documentary, a full description of the document including its location.

Save On SP, LLC

By: 

Jody Miller
President

Date: December 23, 2022

EXHIBIT 14

SEALED IN ITS ENTIRETY

Exhibit 15

To: Jeffrey J. Greenbaum, Esq.
SILLS CUMMIS & GROSS, P.C.
One Riverfront Plaza
Newark, New Jersey 07102
973-643-7000

Adeel A. Mangi, Esq.
Harry Sandick, Esq.
George LoBiondo, Esq.
PATTERSON BELKNAP WEBB
& TYLER LLP
1133 Avenue of the Americas
New York, New York

*Attorneys for Plaintiff Johnson & Johnson
Health Care Systems Inc.*

Pursuant to Federal Rules of Civil Procedure 26 and 33, and Local Civil Rule 33.1, Defendant Save On SP, LLC (“SaveOnSP”), by and through its undersigned counsel, hereby supplements its Responses and Objections to Plaintiff Johnson & Johnson Health Care Systems Inc.’s (“JJHCS”) Interrogatory Nos. 4 and 16, contained in SaveOnSP’s previously-served Responses and Objections. These responses should be deemed to supplement and amend SaveOnSP’s disclosures under Rule 26(a) of the Federal Rules of Civil Procedure. If SaveOnSP learns that in some material respect its responses are incomplete or incorrect, SaveOnSP will supplement or correct them if the additional or corrective information has not otherwise been made known to JJHCS during the discovery process or in writing. Fed. R. Civ. P. 26(e)(1)(A). SaveOnSP’s responses to these Interrogatories are based on information available to it at the time it made them. SaveOnSP reserves the right to modify or supplement its responses.

GENERAL OBJECTIONS

1. JJHCS does not limit any of its Interrogatories to nonprivileged material. SaveOnSP objects to each Interrogatory to the extent that it seeks a disclosure of information which is subject to the attorney-client privilege, the work product doctrine, the common-interest privilege, or any other applicable privileges, immunities, or doctrines.

2. JJHCS does not limit any of its Interrogatories to information withing SaveOnSP’s possession, custody, or control. SaveOnSP objects to each Interrogatory to the extent that it seeks

disclosure of information that is not within SaveOnSP's possession, custody, or control that SaveOnSP can locate after a reasonable inquiry.

OBJECTIONS TO DEFINITIONS

3. SaveOnSP objects to the definition of "SaveOnSP" as including attorneys and accountants who may be outside of SaveOnSP's possession, custody, and control. SaveOnSP interprets the term "SaveOnSP" to mean SaveOnSP, LLC, and any and all predecessors and successors in interest, assignees, parents, subsidiaries, affiliates, divisions or departments, agents, representatives, directors, officers, employees, committees, and all persons or entities acting or purporting to act on behalf or under the control of SaveOnSP, LLC.

4. SaveOnSP objects to the definition of "SaveOnSP Program," as described in Complaint ¶¶ 9-17, because it mischaracterizes SaveOnSP's services. SaveOnSP will not use this definition.

5. SaveOnSP objects to the definition of "You" and "Your" to the same extent that it objects to the definition of "SaveOnSP."

6. SaveOnSP objects to the term "or other substance" in the definition of "Pharmaceutical Manufacturer" as vague and ambiguous. SaveOnSP will interpret the term "Pharmaceutical Manufacturer" to mean any entity that develops, produces, manufactures, creates, licenses, or distributes any pharmaceutical, drug, or medicine used in the treatment, cure, prevention or diagnosis of any illness, disease, disorder, or other condition.

OBJECTIONS TO INSTRUCTIONS

1. SaveOnSP objects to Instruction No. 23 in Plaintiff's First Set of Interrogatories to the extent that JJHCS attempts to impose requirements on SaveOnSP beyond those required by the Federal Rules of Civil Procedure, agreed to by the parties, or ordered by the Court.

2. SaveOnSP objects to Instruction No. 24 in Plaintiff's First Set of Interrogatories to the extent it purports to require SaveOnSP to answer Plaintiff's Interrogatories based on knowledge obtained from all available sources. SaveOnSP will answer Plaintiff's Interrogatories based on information in its possession, custody, and control available to it following a reasonable inquiry.

3. SaveOnSP objects to Instruction No. 25 in Plaintiff's First Set of Interrogatories to the extent that JJHCS attempts to impose requirements on SaveOnSP beyond those required by the Federal Rules of Civil Procedure, agreed to by the parties, or ordered by the Court.

4. SaveOnSP uses the term "Janssen Drugs" as defined in SaveOnSP's First Request for Production of Documents to JJHCS.

5. SaveOnSP objects to Instruction No. 16 in Plaintiff's Third Set of Interrogatories to the extent that JJHCS attempts to impose requirements on SaveOnSP beyond those required by the Federal Rules of Civil Procedure, agreed to by the parties, or ordered by the Court.

6. SaveOnSP objects to Instruction No. 17 in Plaintiff's Third Set of Interrogatories to the extent it purports to require SaveOnSP to answer Plaintiff's Interrogatories based on knowledge obtained from all available sources. SaveOnSP will answer Plaintiff's Interrogatories based on information in its possession, custody, and control available to it following a reasonable inquiry.

7. SaveOnSP objects to Instruction No. 18 in Plaintiff's Third Set of Interrogatories to the extent that JJHCS attempts to impose requirements on SaveOnSP beyond those required by the Federal Rules of Civil Procedure, agreed to by the parties, or ordered by the Court.

8. SaveOnSP objects to Instruction No. 19 in Plaintiff's Third Set of Interrogatories because it attempts to require SaveOnSP to provide information that is irrelevant to the claims and

defenses in this action. SaveOnSP will provide information on its interactions with JJHCS and on its general business practices applicable to multiple Pharmaceutical Manufacturers that include such practices applicable to JJHCS.

Dated: February 23, 2024

By: /s/ E. Evans Wohlforth, Jr.
E. Evans Wohlforth, Jr., Esq.
ROBINSON & COLE LLP
666 Third Avenue, 20th Floor
New York, NY 10017-4132
Main (212) 451-2900
Fax (212) 451-2999
ewohlforth@rc.com

Philippe Z. Selendy (admitted *pro hac vice*)
Andrew R. Dunlap (admitted *pro hac vice*)
Meredith Nelson (admitted *pro hac vice*)
Elizabeth Snow (admitted *pro hac vice*)
SELENDY GAY PLLC
1290 Avenue of the Americas
New York, NY 10104
212-390-9000
pselendy@selendygay.com
adunlap@selendygay.com
mnelson@selendygay.com
esnow@selendygay.com

Attorneys for Defendant Save On SP, LLC

Describe, in as much detail as possible, the process by which SaveOnSP determines the size of the “inflated co-pay,” or increase to Plan Members’ Copayment or Co-insurance, including any and all criteria used to inform how that Co-payment or Co-insurance is determined.

A series of 20 horizontal black bars of varying lengths, stacked vertically, representing redacted text. The bars are of different widths and are positioned at irregular intervals, suggesting a list or a series of lines of text that have been completely obscured.

[REDACTED]

SaveOnSP designates its response to this Interrogatory as Attorneys' Eyes Only under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

INTERROGATORY NO. 16:

Describe, in as much detail as possible, all measures that You have utilized to prevent any Pharmaceutical Manufacturer or manufacturers from being able to identify patients that are enrolled in the SaveOnSP Program, or to make it more difficult for them to do so.

RESPONSE:

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]


[REDACTED]

SaveOnSP designates its response to this Interrogatory as Attorneys' Eyes Only under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

CERTIFICATION OF SAVE ON SP, LLC

I, Jody Miller, am the President of Save On SP, LLC ("SaveOnSP"). I am authorized to submit this certification on behalf of SaveOnSP. I certify that the foregoing answers made by me to these Interrogatories are true. I further certify that all previously-submitted answers to Interrogatories, including where supplemented, are true. I am aware that if any of the foregoing answers are willfully false, SaveOnSP and I are subject to punishment. I certify that in responding to the foregoing Interrogatories, I have furnished all information available to SaveOnSP, its agents, employees and attorneys. As to those answers which are not within my personal knowledge, I certify that I have provided the name and address of every person from whom such information was received or, where the source of such information is documentary, a full description of the document including its location.

Save On SP, LLC

By: 
Jody Miller
President

Date: February 23, 2024

Exhibit 16

Selendy|Gay

Elizabeth H. Snow
Associate
212.390.9330
esnow@selendygay.com

February 23, 2024

Via E-mail

Caroline Zielinski
Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas
New York, NY 10036
czielinski@pbwt.com

Re: *Johnson & Johnson Health Care Systems Inc. v. Save On SP, LLC (Case No. 2:22-cv-02632-JKS-CLW)*

Dear Caroline,

We write in response to your February 9, 2024 letter regarding alleged deficiencies in SaveOn's supplemental responses to J&J's interrogatories.

First, J&J asserts that SaveOn did not supplement its responses "without limitation" because it did not provide updated responses for Interrogatories where its responses have not changed. SaveOn does not believe that Judge Waldor's order requires it to restate answers that have not changed.

Second, J&J asks that SaveOn "immediately conduct a reasonable investigation to ensure that no additional supplementation is required as to the sixteen unchanged responses." SaveOn did so.

Third, J&J asserts that [REDACTED] than those described in its response to Interrogatory No. 4, specifically [REDACTED]. While we disagree that any supplementation is necessary, to avoid a dispute, SaveOn provides a supplemented response to Interrogatory No. 4.

Fourth, citing various documents, J&J asserts that [REDACTED] and asks that SaveOn investigate its response to Interrogatory 15. SaveOn has investigated and reaffirms its previous response to Interrogatory No. 15.

Fifth, citing two documents, J&J asserts that SaveOn's statement in its response to Interrogatory No. 16 regarding [REDACTED] is inaccurate. After investigating, we disagree. J&J also asserts that SaveOn's response to Interrogatory No. 16 [REDACTED] SaveOn provides a supplemented response to Interrogatory No. 16 to clarify a separate issue.

Sixth, J&J asserts that SaveOn's responses to Interrogatories No. 17 and 19 [REDACTED]. We disagree. J&J also asserts that SaveOn failed to supplement its responses to Interrogatories No. 17, 19, 20 on the question of whether [REDACTED] [REDACTED] In fact, SaveOn investigated and determined that no supplementation was necessary on this point. J&J further asserts that SaveOn failed to supplement those responses because J&J asserts that [REDACTED] [REDACTED]. SaveOn does not believe that any supplementation on this point is required. SaveOn reaffirms its previous responses to Interrogatory Nos. 17, 19, and 20.

SaveOn reserves all rights.

Best,

/s/ Elizabeth H. Snow

Elizabeth H. Snow
Associate

Exhibit 17

E. Evans Wohlforth, Jr., Esq.
ROBINSON & COLE LLP
 666 Third Avenue, 20th Floor
 New York, NY 10017-4132
 Main (212) 451-2900
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David Elsborg (*admitted pro hac vice*)
 Andrew R. Dunlap (*admitted pro hac vice*)
 Meredith Nelson (*admitted pro hac vice*)
 Elizabeth Snow (*admitted pro hac vice*)
 Dominic Budetti (*admitted pro hac vice*)
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 212-390-9000
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 adunlap@selendygay.com
 mnelson@selendygay.com
 esnow@selendygay.com
 dbudetti@selendygay.com

Attorneys for Defendant Save On SP, LLC

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JOHNSON & JOHNSON
HEALTH CARE SYSTEMS INC.,

Plaintiff,

V.

SAVE ON SP, LLC,

Defendant.

Civ. A. No. 22-2632 (JMV) (CLW)

**DEFENDANT’S SUPPLEMENTAL
RESPONSES AND OBJECTIONS TO
PLAINTIFF’S SECOND SET OF
INTERROGATORIES**

To: Jeffrey J. Greenbaum, Esq.
SILLS CUMMIS & GROSS, P.C.
One Riverfront Plaza

Newark, New Jersey 07102
973-643-7000

Adeel A. Mangi, Esq.
Harry Sandick, Esq.
George LoBiondo, Esq.
PATTERSON BELKNAP WEBB
& TYLER LLP
1133 Avenue of the Americas
New York, New York

*Attorneys for Plaintiff Johnson & Johnson
Health Care Systems Inc.*

Pursuant to Federal Rules of Civil Procedure 26 and 33, and Local Civil Rule 33.1, Defendant Save On SP, LLC (“SaveOnSP”), by and through its undersigned counsel, hereby supplements its Responses and Objections to Plaintiff Johnson & Johnson Health Care Systems Inc.’s (“JJHCS”) Interrogatory Nos. 14 and 15, contained in SaveOnSP’s Responses and Objections to JJHCS’s Second Set of Interrogatories, dated March 9, 2023. These responses should be deemed to supplement and amend SaveOnSP’s disclosures under Rule 26(a) of the Federal Rules of Civil Procedure. If SaveOnSP learns that in some material respect its responses are incomplete or incorrect, SaveOnSP will supplement or correct them if the additional or corrective information has not otherwise been made known to JJHCS during the discovery process or in writing. Fed. R. Civ. P. 26(e)(1)(A). SaveOnSP’s responses to these Interrogatories are based on information available to it at the time it made them. SaveOnSP reserves the right to modify or supplement its responses.

GENERAL OBJECTIONS

1. JJHCS does not limit any of its Interrogatories to nonprivileged material. SaveOnSP objects to each Interrogatory to the extent that it seeks disclosure of information which is subject to the attorney-client privilege, the work product doctrine, the common-interest privilege, or any other applicable privileges, immunities, or doctrines.

2. JJHCS does not limit any of its Interrogatories to information within SaveOnSP's possession, custody, or control. SaveOnSP objects to each Interrogatory to the extent that it seeks disclosure of information that is not within SaveOnSP's possession, custody, or control that SaveOnSP can locate after a reasonable inquiry.

3. JJHCS's Instruction 27 does not define the Time Period with specificity. SaveOnSP objects to each Interrogatory to the extent that it seeks disclosure of information "through the present." SaveOnSP responds with information from January 1, 2017 through the date of these Responses.

OBJECTIONS TO DEFINITIONS

4. SaveOnSP objects to the definition of "SaveOnSP" as including attorneys and accountants who may be outside of SaveOnSP's possession, custody, and control. SaveOnSP interprets the term "SaveOnSP" to mean Save On SP, LLC, and any and all predecessors and successors in interest, assignees, parents, subsidiaries, affiliates, divisions or departments, agents, representatives, directors, officers, employees, committees, and all persons or entities acting or purporting to act on behalf or under the control of Save On SP, LLC.

5. SaveOnSP objects to the definition of "SaveOnSP Program," as described in Complaint ¶¶ 9-17, because it mischaracterizes SaveOnSP's services. SaveOnSP will not use this definition.

6. SaveOnSP objects to the definition of "You" and "Your" to the same extent that it objects to the definition of "SaveOnSP."

OBJECTIONS TO INSTRUCTIONS

7. SaveOnSP objects to Instruction No. 24 in Plaintiff's Second Set of Interrogatories to the extent that JJHCS attempts to impose requirements on SaveOnSP beyond those required by the Federal Rules of Civil Procedure, agreed to by the parties, or ordered by the Court.

8. SaveOnSP objects to Instruction No. 25 to the extent it purports to require SaveOnSP to answer Plaintiff's Interrogatories based on knowledge obtained from all available sources. SaveOnSP will answer Plaintiff's Interrogatories based on information in its possession, custody, and control available to it following a reasonable inquiry.

9. SaveOnSP objects to Instruction No. 26 to the extent that JJHCS attempts to impose requirements on SaveOnSP beyond those required by the Federal Rules of Civil Procedure, agreed to by the parties, or ordered by the Court.

10. SaveOnSP uses the term "Janssen Drugs" as defined in SaveOnSP's First Request for Production of Documents to JJHCS, dated November 11, 2022.

Dated: May 5, 2023

By: /s/ E. Evans Wohlforth, Jr.
E. Evans Wohlforth, Jr.
ROBINSON & COLE LLP
666 Third Avenue, 20th Floor
New York, NY 10017-4132
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mnelson@selendygay.com
esnow@selendygay.com
dbudetti@selendygay.com

*Attorneys for Defendant Save On SP,
LLC*

SUPPLEMENTAL RESPONSES TO PLAINTIFF'S INTERROGATORY
NOS. 14 AND 15

INTERROGATORY NO. 14:

Identify any Entity or individual who has entered into any agreement, or otherwise has any obligation, to advance legal fees incurred by SaveOnSP in this action or to indemnify SaveOnSP in this action for its legal fees, for any damages, or otherwise.

RESPONSE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SaveOnSP designates its response to this Interrogatory as Attorneys' Eyes Only under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

INTERROGATORY NO. 15:

Describe whether and under what circumstances You have advised any Payors to eliminate or alter coverage for certain pharmaceuticals and to arrange for Plan Members to obtain those pharmaceuticals from any source other than Accredo, including (without limitation) independent nonprofit organizations, such as the Johnson & Johnson Patient Assistance Foundation, Inc.

RESPONSE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SaveOnSP designates its response to this Interrogatory as Attorneys' Eyes Only under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

CERTIFICATION OF SAVE ON SP, LLC

I, Jody Miller, am the President of Save On SP, LLC ("SaveOnSP"). I am authorized to submit this certification on behalf of SaveOnSP. I certify that the foregoing answers made by me to these Interrogatories are true. I am aware that if any of the foregoing answers are willfully false, SaveOnSP and I are subject to punishment. I certify that in responding to the foregoing Interrogatories, I have furnished all information available to SaveOnSP, its agents, employees and attorneys. As to those answers which are not within my personal knowledge, I certify that I have provided the name and address of every person from whom such information was received or, where the source of such information is documentary, a full description of the document including its location.

Save On SP, LLC

By: 

Jody Miller
President

Date: May 5, 2023

EXHIBIT 18

SEALED IN ITS ENTIRETY

Exhibit 19

Long, Julia (x2878)

From: Elizabeth Snow <esnow@selendygay.com>
Sent: Thursday, October 19, 2023 7:22 PM
To: Arrow, Sara (x2031); Vinita Davey; Mangi, Adeel A. (x2563); Sandick, Harry (x2723); Shane, Beth (x2659); LoBiondo, George (x2008); Long, Julia (x2878); ~jgreenbaum@sillscummis.com; ~klieb@sillscummis.com; Brisson, Katherine (x2552)
Cc: Andrew Dunlap; Meredith Nelson; Wohlforth, E. Evans; Emma Ashe O'Toole
Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Caution: External Email!

Sara,

After speaking with our client, SaveOnSP is willing to provide the supplemental responses as requested regarding any [REDACTED]

This agreement does not constitute a waiver of SaveOnSP's relevance objection. SaveOnSP maintains that documents and information [REDACTED] is wholly irrelevant to this action. We are agreeing to this to eliminate burdening the Court with a dispute.

SaveOnSP will provide its supplemental responses, including as to [REDACTED], as promptly as it is able.

Best,

Elizabeth

Elizabeth Snow

Associate [\[Email\]](#)

Selendy Gay Elsberg PLLC [\[Web\]](#)

Pronouns: she, her, hers

+1 212.390.9330 [O]

+1 540.409.7257 [M]

From: Arrow, Sara (x2031) <sarrow@pbwt.com>
Sent: Wednesday, October 18, 2023 1:34 PM
To: Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>
Cc: Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Wohlforth, E. Evans <EWohlforth@rc.com>; Emma Ashe O'Toole <eashe@selendygay.com>
Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Elizabeth,

We have not heard anything further from SaveOnSP regarding its responses to JJHCS's Third Set of Interrogatories, despite stating that you would provide SaveOnSP's position early this week. Accordingly, we attach JJHCS's portion of a joint motion, which we intend to file with the Court no later than October 27, 2023. We request SaveOnSP's response no later than the close of business on October 24, 2023. In addition, as you know, you have agreed to supplement your Responses to JJHCS's Third Set of Interrogatories and despite multiple requests, we still have not received that required supplementation. Please provide it no later than the close of business tomorrow, October 19, 2023. We reserve all rights.

Regards,
Sara

Sara A. Arrow

She | Her | Hers

Patterson Belknap Webb & Tyler LLP

1133 Avenue of the Americas

New York, NY 10036

Phone: (212) 336-2031

Fax: (212) 336-2092

sarrow@pbwt.com | www.pbwt.com

From: Elizabeth Snow <esnow@selendygay.com>

Sent: Friday, October 13, 2023 6:09 PM

To: Arrow, Sara (x2031) <sarrow@pbwt.com>; Vinita Davey <vdavey@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; Deskus, Cassie (x2003) <cdeskus@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; ~jgreenbaum@silscummis.com <jgreenbaum@silscummis.com>; ~klieb@silscummis.com <klieb@silscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>

Cc: Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Wohlforth, E. Evans <EWohlforth@rc.com>; Emma Ashe O'Toole <eamashe@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Caution: External Email!

Sara,

We are still speaking with our client regarding the interrogatory responses referenced below. We anticipate being in a position to respond with SaveOnSP's position early next week.

Best,

Elizabeth

Elizabeth Snow

Associate [[Email](#)]

Selendy Gay Elsberg PLLC [[Web](#)]

Pronouns: she, her, hers

+1 212.390.9330 [O]

+1 540.409.7257 [M]

From: Arrow, Sara (x2031) <sarrow@pbwt.com>
Sent: Wednesday, October 11, 2023 4:43 PM
To: Vinita Davey <vdavey@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; Deskus, Cassie (x2003) <cdeskus@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; krieb@sillscummis.com <krieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>
Cc: Andrew Dunlap <adunlap@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Wohlforth, E. Evans <EWohlforth@rc.com>; Emma Ashe O'Toole <eashe@selendygay.com>
Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Elizabeth—

Thank you for participating in our meet and confer session earlier today. As we discussed, we request that, by the close of business on Friday, October 13, 2023, you provide SaveOnSP's position as to whether it will provide information [REDACTED] in response to JJHCS's Interrogatories Nos. 16-20. In the event we do not hear from you by the close of business on October 13 or do not find any counterproposal satisfactory, we will conclude that the parties are at impasse as to this issue.

Additionally, we requested that you supplement your responses to JJHCS's Interrogatories Nos. 19 and 20 by September 29. See Sept. 22, 2023 Ltr. from S. Arrow to M. Nelson. You have agreed to provide the required supplementation. See Oct. 6, 2023 Ltr. from M. Nelson to S. Arrow. Please do so by October 13, 2023.

Regards,
Sara

Sara A. Arrow

She | Her | Hers

Patterson Belknap Webb & Tyler LLP
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Fax: (212) 336-2092
sarrow@pbwt.com | www.pbwt.com

From: Arrow, Sara (x2031)
Sent: Friday, October 6, 2023 5:26 PM
To: 'Vinita Davey' <vdavey@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; Deskus, Cassie (x2003) <cdeskus@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; krieb@sillscummis.com <krieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>
Cc: Andrew Dunlap <adunlap@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Wohlforth, E. Evans <EWohlforth@rc.com>; Emma Ashe O'Toole <eashe@selendygay.com>
Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Counsel—

We would like to meet and confer concerning the letters you sent on October 3, 2023, including the letter from Andrew Dunlap concerning JJHCS's RFP No. 83, the letter from Elizabeth Snow concerning JJHCS's RFPs 89 and 90, the letter from Meredith Nelson concerning JJHCS's Eighth Set of RFPs, and all previous correspondence concerning the same topics. We would also like to address your October 6, 2023 letter regarding SaveOnSP's Responses and Objections to JJHCS's Third Set of Interrogatories and previous correspondence regarding the same.

Please let us know your availability to confer from 11-6 on either Monday, October 9 or Tuesday, October 10. Please reserve an hour and half for our meet and confer session.

Have a nice weekend.

Thanks,
Sara

Sara A. Arrow

She | Her | Hers

Patterson Belknap Webb & Tyler LLP

1133 Avenue of the Americas

New York, NY 10036

Phone: (212) 336-2031

Fax: (212) 336-2092

sarrow@pbwt.com | www.pbwt.com

From: Vinita Davey <vdavey@selendygay.com>

Sent: Friday, October 6, 2023 5:02 PM

To: Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; Deskus, Cassie (x2003) <cdeskus@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>

Cc: Andrew Dunlap <adunlap@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Wohlforth, E. Evans <EWohlforth@rc.com>; Emma Ashe O'Toole <eamashe@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // SaveOnSP's R&Os to JJHCS 8th Set of RFPs and 3rd Set of Rogs

Caution: External Email!

Counsel,

Please see the attached correspondence in the above-captioned matter.

Best,
Vinita

Vinita Davey*

Law Clerk [vdavey@selendygay.com]

Selendy Gay Elsberg PLLC [[Web](#)]

Pronouns: she/her

+1 212.390.9354 [O]
+1 201.323.3634 [M]

*Not admitted to the Bar.

From: Arrow, Sara (x2031) <sarrow@pbwt.com>

Sent: Friday, September 22, 2023 2:57:00 PM

To: Meredith Nelson <mnelson@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; Deskus, Cassie (x2003) <cdeskus@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>

Cc: Andrew Dunlap <adunlap@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; ewohlforth@rc.com <EWohlforth@rc.com>

Subject: RE: JJHCS v. SaveOnSP // SaveOnSP's R&Os to JJHCS 8th Set of RFPs and 3rd Set of Rogs

Meredith,

Please see the attached letter concerning SaveOnSP's R&Os to JJHCS's Third Set of Interrogatories.

Regards,
Sara

Sara A. Arrow

She | Her | Hers

Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas
New York, NY 10036
Phone: (212) 336-2031
Fax: (212) 336-2092
sarrow@pbwt.com | www.pbwt.com

From: Arrow, Sara (x2031)

Sent: Thursday, September 21, 2023 5:25 PM

To: 'Meredith Nelson' <mnelson@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; Deskus, Cassie (x2003) <cdeskus@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>

Cc: Andrew Dunlap <adunlap@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; ewohlforth@rc.com

Subject: RE: JJHCS v. SaveOnSP // SaveOnSP's R&Os to JJHCS 8th Set of RFPs and 3rd Set of Rogs

Meredith,

Please see the attached letter concerning SaveOnSP's R&Os to JJHCS's Eighth Set of Requests for Production.

Regards,
Sara

Sara A. Arrow

She | Her | Hers

Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas

New York, NY 10036
Phone: (212) 336-2031
Fax: (212) 336-2092
sarrow@pbwt.com | www.pbwt.com

From: Meredith Nelson <mnelson@selendygay.com>

Sent: Monday, September 18, 2023 7:51 PM

To: Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; Deskus, Cassie (x2003) <cdeskus@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; klieb@sillscummis.com <klieb@sillscummis.com>

Cc: Andrew Dunlap <adunlap@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; ewohlforth@rc.com

Subject: JJHCS v. SaveOnSP // SaveOnSP's R&Os to JJHCS 8th Set of RFPs and 3rd Set of Rogs

Caution: External Email!

Counsel,

Attached please find SaveOnSP's R&Os to JJHCS's 8th Set of Requests for Productions and 3rd Set of Interrogatories.

Regards,

Meredith

Meredith Nelson

Associate [[Email](#)]

Selendy Gay Elsberg PLLC [[Web](#)]

Pronouns: she, her, hers

+1 212.390.9069 [O]

+1 918.200.3148 [M]

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Privileged/Confidential Information may be contained in this message. If you are not the addressee indicated in this message (or responsible for delivery of the message to such person), you may not copy or deliver this message to anyone. In such case, you should destroy this message and kindly notify the sender by reply email. Please advise

immediately if you or your employer do not consent to receiving email messages of this kind.

Privileged/Confidential Information may be contained in this message. If you are not the addressee indicated in this message (or responsible for delivery of the message to such person), you may not copy or deliver this message to anyone. In such case, you should destroy this message and kindly notify the sender by reply email. Please advise immediately if you or your employer do not consent to receiving email messages of this kind.

Privileged/Confidential Information may be contained in this message. If you are not the addressee indicated in this message (or responsible for delivery of the message to such person), you may not copy or deliver this message to anyone. In such case, you should destroy this message and kindly notify the sender by reply email. Please advise immediately if you or your employer do not consent to receiving email messages of this kind.

EXHIBIT 20

SEALED IN ITS ENTIRETY

Exhibit 21

(x2563) <aamangi@pbwt.com>

Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; _cg J&J-SaveOn <JJSaveOn@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Emma Ashe O'Toole <eashe@selendygay.com>; Sarah Chase <schase@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Matt,

Thanks for your response, but it does not answer my question. To be clear, SaveOnSP must provide full and clear answers to JJHCS's interrogatories 17, 19, and 20. Yet, as best we can tell, you appear to be attempting to limit SaveOnSP's investigation to [REDACTED]. That is unduly narrow in two respects.

First, "whether SaveOn authorized" a tactic is not the only relevant information. As we have already explained twice, SaveOnSP must investigate [REDACTED], including *but not limited to* whether and how they were authorized.

Second, it is not appropriate for SaveOnSP to artificially limit its investigation to [REDACTED]

[REDACTED] But unlike Ms. Zulqarnain, SaveOnSP must furnish *all* "information available to SaveOnSP, its agents, employees and attorneys," as Mr. Miller's own certification acknowledges. And the interrogatories themselves clearly ask for, e.g., "all instances where and all circumstances under which" [REDACTED]

We must insist on a clear record of what SaveOnSP is refusing to do, so that we can determine whether it is necessary to seek relief. We would therefore appreciate a direct, non-evasive, yes or no response to the following: As part of its obligation to accurately and comprehensively answer our interrogatories 17, 19, and 20, will SaveOnSP investigate [REDACTED]

Because it has been many weeks since we first raised this issue, and because the conference with Judge Wolfson is fast approaching, we request your response by the close of business on Tuesday, January 16.

Thanks again,
George

From: Matthew Nussbaum <mnussbaum@selendygay.com>

Sent: Tuesday, January 9, 2024 5:18 PM

To: LoBiondo, George (x2008) <globiondo@pbwt.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>

Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; _cg J&J-SaveOn <JJSaveOn@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Emma Ashe O'Toole <eashe@selendygay.com>; Sarah Chase <schase@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Caution: External Email!

George,

I can confirm that SaveOn will (1) investigate whether [REDACTED]

[REDACTED] (2)
supplement its responses to J&J's Interrogatories 17, 19 and 20 to reflect the results of that investigation; and (3)
supplement its responses to those interrogatories [REDACTED].

Once again, SaveOn does not believe that the Rules require it to do this, but will do so in order to avoid a dispute.

Best,

Matt

Matthew Nussbaum

Associate [Email]

Selendy Gay Elsberg PLLC [Web]

Pronouns: he, him, his

+1 212.390.9062 [O]

+1 856.534.8606 [M]

From: LoBiondo, George (x2008) <globiondo@pbwt.com>

Sent: Tuesday, January 9, 2024 10:56 AM

To: Matthew Nussbaum <mnussbaum@selendygay.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>

Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; _cg J&J-SaveOn <JJSaveOn@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Emma Ashe O'Toole <eashe@selendygay.com>; Sarah Chase <schase@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Matt,

When will you respond to my note below?

Thanks,
George

From: LoBiondo, George (x2008) <globiondo@pbwt.com>

Sent: Tuesday, January 2, 2024 8:36 AM

To: Matthew Nussbaum <mnussbaum@selendygay.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>

Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; _cg J&J-SaveOn <JJSaveOn@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Emma Ashe O'Toole <eashe@selendygay.com>; Sarah Chase <schase@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Matt,

Thanks for your email, and confirming that SaveOnSP will take the steps you have outlined. However, as noted in my email below, and as we further discussed on December 19, SaveOnSP's investigation and [REDACTED]
[REDACTED] Rather, SaveOnSP must investigate [REDACTED]
[REDACTED]

(See highlighting below.) Please promptly confirm that SaveOnSP will do so.

Thanks again,
George

From: Matthew Nussbaum <mnussbaum@selendygay.com>
Sent: Friday, December 29, 2023 12:39 PM
To: LoBiondo, George (x2008) <globiondo@pbwt.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>
Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; _cg J&J-SaveOn <JJSaveOn@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Emma Ashe O'Toole <eashe@selendygay.com>; Sarah Chase <schase@selendygay.com>
Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Caution: External Email!

George,
Following up on your questions from the parties' December 19 meet-and-confer, SaveOn will (1) investigate whether [REDACTED]; (2) supplement its responses to J&J's Interrogatories 17, 19 and 20 to reflect the results of that investigation; and (3) supplement its responses to those interrogatories [REDACTED]. SaveOn does not believe that the Rules require it to do this, but agrees to do so in order to avoid a dispute.
Thank you,

Matt

Matthew Nussbaum
Associate [\[Email\]](#)
Selendy Gay Elsberg PLLC [\[Web\]](#)
Pronouns: he, him, his

+1 212.390.9062 [O]
+1 856.534.8606 [M]

From: LoBiondo, George (x2008) <globiondo@pbwt.com>
Sent: Monday, December 18, 2023 2:32 PM
To: Matthew Nussbaum <mnussbaum@selendygay.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>
Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; _cg J&J-SaveOn <JJSaveOn@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Emma Ashe O'Toole <eashe@selendygay.com>; Sarah Chase <schase@selendygay.com>
Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Thanks Matt. We will circulate an invite for 11:15.

In addition to the interrogatory responses issue, please also be prepared to discuss the matters referenced in SaveOnSP's December 15 letter on text messages (attached here for your reference).

From: Matthew Nussbaum <mnussbaum@selendygay.com>
Sent: Thursday, December 14, 2023 6:46 PM
To: LoBiondo, George (x2008) <globiondo@pbwt.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>
Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; _cg J&J-SaveOn <JJSaveOn@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Emma Ashe O'Toole <eashe@selendygay.com>; Sarah Chase <schase@selendygay.com>
Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Caution: External Email!

George,

Thank you. As requested, we are available to meet and confer on Tuesday, December 19 at any time before 1:30 p.m.

Please let us know if you are available.

Thank you,

Matt

Matthew Nussbaum

Associate [\[Email\]](#)

Selendy Gay Elsberg PLLC [\[Web\]](#)

Pronouns: he, him, his

+1 212.390.9062 [O]

+1 856.534.8606 [M]

From: LoBiondo, George (x2008) <globiondo@pbwt.com>
Sent: Thursday, December 14, 2023 10:58 AM
To: Matthew Nussbaum <mnussbaum@selendygay.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>
Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; _cg J&J-SaveOn <JJSaveOn@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Emma Ashe O'Toole <eashe@selendygay.com>; Sarah Chase <schase@selendygay.com>
Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Matthew: please respond without further delay to my message below. Thanks.

From: LoBiondo, George (x2008)
Sent: Wednesday, December 6, 2023 11:56 AM

To: 'Matthew Nussbaum' <mnussbaum@selendygay.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>

Cc: Wohlforth, E. Evans <E Wohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; _cg J&J-SaveOn <JJSaveOn@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Emma Ashe O'Toole <eashe@selendygay.com>; Sarah Chase <schase@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Matthew,

Thanks for your note. We are surprised by your assertion that SaveOnSP need not update its interrogatory responses, and we disagree with it. In particular, Ms. Zulqarnain's deposition testimony, standing alone, is not enough to serve as SaveOnSP's corrective disclosure. To satisfy the "otherwise made known" standard you reference, the additional information must be "clearly and unambiguously" provided, "in such a form and of such specificity as the functional equivalent of a supplemental discovery response." *E.g., In re Blackrock Mutual Funds Advisory Fee Litig.*, 2018 WL 11242142, at *4 (D.N.J. June 13, 2018). Here, [REDACTED]

[REDACTED] . By way of example, [REDACTED]

[REDACTED] (see Tr. at 115:15–25). [REDACTED]

[REDACTED] So SaveOnSP cannot point to this testimony to satisfy Rule 26. See, e.g., *Eli Lilly & Co. v. Actavis Elizabeth LLC*, 2010 WL 1849913, at *9 (D.N.J. May 7, 2010) ("Sporadic mentions in depositions are not a substitute for certified responses to discovery and do not satisfy [a party's] discovery obligations."); *In re Pfizer Inc.*, 2006 WL 2938723, at *3 (D.N.J. Oct. 13, 2006) ("[B]y failing to supplement its response to Teva's interrogatory, Pfizer's response became materially incomplete or incorrect, and Pfizer was thus in violation of Rule 26(e)(2).").

[REDACTED] See *Younes v. 7-Eleven, Inc.*, 312 F.R.D. 692, 705–07 (D.N.J. 2015) ("A party answering interrogatories is under a duty to produce all information available to the party" and a party "is charged with knowledge of what its agents know and what is in the documents available to it."). Because of this, and because [REDACTED], we think it obvious that SaveOnSP should supplement them so that they are both correct and complete. See, e.g., *Prominent GmbH v. Prominent Sys., Inc.*, 2019 WL 3972819, at *2 (W.D. Pa. Aug. 22, 2019) (deposition testimony contrary to past interrogatory responses should be addressed with "a revision to the Interrogatory Responses"); *Gripper v. City of Springfield, Ill.*, 2006 WL 988481, at *3 (C.D. Ill. Apr. 13, 2006) (declining to sanction a party that "acted promptly after" a deposition "to amend its answer to [a past] interrogatory" when the deponent's testimony revealed the past interrogatory answer to be false). Please confirm by December 12 that SaveOnSP will do so, or provide your availability to meet and confer.

Thanks again,
George

From: Matthew Nussbaum <mnussbaum@selendygay.com>

Sent: Wednesday, November 29, 2023 9:49 AM

To: LoBiondo, George (x2008) <globiondo@pbwt.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>

Cc: Wohlforth, E. Evans <E Wohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; _cg J&J-SaveOn <JJSaveOn@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Emma Ashe O'Toole <eashe@selendygay.com>; Sarah Chase <schase@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Caution: External Email!

George,

The Federal Rules of Civil Procedure require a party to supplement or correct a response “if the additional or corrective information has not otherwise been made known to the other parties during the discovery process.” FRCP 26(e)(1)(A). One way in which information can be “otherwise . . . made known” to a party is through deposition testimony. *See, e.g., Pa. State Lodge Fraternal Ord. of Police v. Twp. of Springfield*, 2023 WL 7547494, at *7 (E.D. Pa. Nov. 13, 2023) (disclosures did not need to be revised when the information at issue was used during depositions); *Liggins-McCoy v. Democratic Caucus of Senate of Pa.*, 2022 WL 1446987, at *10 (same); *Eli Lilly and Co. v. Actavis Elizabeth LLC*, 2010 WL 1849913, at *3 (D.N.J. May 7, 2010) (“A majority of courts, the leading treatises, and the Advisory Committee Note to Rule 26 agree that an individual’s existence or knowledge can ‘otherwise be made known,’ and thus be sufficiently disclosed for Rule 26 purposes, through deposition testimony.”); *In re Jacoby Airplane Crash*, 2007 WL 559801, at *8 (D.N.J. Feb. 14, 2007) (collecting cases).

The Rules thus do not require SaveOnSP to update its interrogatory responses [REDACTED]
[REDACTED] If you are aware of any authority to the contrary, please let us know.

Thank you,

Matt

Matthew Nussbaum

Associate [Email]

Selendy Gay Elsberg PLLC [Web]

Pronouns: he, him, his

+1 212.390.9062 [O]

+1 856.534.8606 [M]

From: LoBiondo, George (x2008) <globiondo@pbwt.com>

Sent: Wednesday, November 22, 2023 12:09 PM

To: Matthew Nussbaum <mnussbaum@selendygay.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>

Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; _cg J&J-SaveOn <JJSaveOn@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Emma Ashe O'Toole <eamashe@selendygay.com>; Sarah Chase <schase@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Counsel,

Please let us know when SaveOnSP will supplement its responses to JJHCS’s interrogatories [REDACTED]
[REDACTED]

Thanks very much.
George

From: Matthew Nussbaum <mnussbaum@selendygay.com>
Sent: Thursday, November 9, 2023 10:30 AM
To: Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>
Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>; Emma Ashe O'Toole <eamashe@selendygay.com>; Sarah Chase <schase@selendygay.com>
Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Caution: External Email!

Counsel,
Attached, please find SaveOnSP's supplemental responses and objections to JJHCS's interrogatory 19, including a signed certification.
Thank you,

Matt

Matthew Nussbaum

Associate [Email]

Selendy Gay Elsberg PLLC [Web]

Pronouns: he, him, his

+1 212.390.9062 [O]

+1 856.534.8606 [M]

From: Matthew Nussbaum <mnussbaum@selendygay.com>
Sent: Monday, November 6, 2023 11:35 AM
To: Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>
Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>; Emma Ashe O'Toole <eamashe@selendygay.com>; Sarah Chase <schase@selendygay.com>
Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Good morning, Counsel,

Attached, please find SaveOnSP's supplemental responses and objections to JJHCS's interrogatories 16, 17, and 18, including a signed certification. Please also find the signed certification for the supplemental responses to 19 and 20, which were served on Friday.

Thank you,
Matt

Matthew Nussbaum

Associate [Email]

Selendy Gay Elsberg PLLC [Web]

Pronouns: he, him, his

+1 212.390.9062 [O]

+1 856.534.8606 [M]

From: Arrow, Sara (x2031) <sarrow@pbwt.com>

Sent: Friday, November 3, 2023 4:08 PM

To: Matthew Nussbaum <mnussbaum@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>

Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>; Emma Ashe O'Toole <eamsh@selendygay.com>; Sarah Chase <schase@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Counsel—

Thank you for providing these supplemental Responses & Objections to JJHCS's Interrogatories Nos. 19 and 20. As you know, you agreed to supplement your Responses to JJHCS's entire third set of Interrogatories, inclusive of Interrogatories Nos. 16-20, to address [REDACTED]. See Oct. 19, 2023 and Oct. 25, 2023 Emails between E. Snow and S. Arrow. You appear not to have done so with respect to Interrogatories 16-18. Please provide the entirety of the required supplementation no later than 2 p.m. on Monday, November 6, 2023. In addition, please provide the required signed certification by 2 p.m. on Monday, November 6. JJHCS reserves all rights.

Thank you for confirming that Ms. Zulqarnain will be made available for a deposition on Tuesday, November 7 at your offices beginning at 9:30 a.m. The following individuals will be attending on behalf of JJHCS: Katherine Brisson, Sheryn George, Jeffrey Greenbaum, and George LoBiondo. We will follow-up with the names of the videographer and stenographer as soon as they are available.

Regards,
Sara

Sara A. Arrow

She | Her | Hers

Patterson Belknap Webb & Tyler LLP

1133 Avenue of the Americas

New York, NY 10036

Phone: (212) 336-2031

Fax: (212) 336-2092

sarrow@pbwt.com | www.pbwt.com

From: Matthew Nussbaum <mnussbaum@selendygay.com>

Sent: Friday, November 3, 2023 3:03 PM

To: Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>

Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008)

<globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; ~jgreenbaum@sillscummis.com
<jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552)
<kbrisson@pbwt.com>; Emma Ashe O'Toole <eashe@selendygay.com>; Sarah Chase <schase@selendygay.com>
Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Caution: External Email!

Counsel,

Attached, please find SaveOnSP's supplemental responses and objections to JJHCS's Third Set of Interrogatories. A signed certification will follow early next week.

Thank you,

Matt

Matthew Nussbaum

Associate [Email]

Selendy Gay Elsberg PLLC [Web]

Pronouns: he, him, his

+1 212.390.9062 [O]

+1 856.534.8606 [M]

From: Matthew Nussbaum

Sent: Wednesday, November 1, 2023 3:35 PM

To: Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>

Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>; Emma Ashe O'Toole <eashe@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Counsel,

We are working to complete our investigation and prepare the requested responses as promptly as possible. We will endeavor to provide them to you by Friday.

We can also confirm that Ms. Zulqarnain will be made available for a deposition on Tuesday, Nov. 7 at our offices beginning at 9:30 a.m. Please advise, at your earliest convenience, who will be attending so that we can ensure access to our building.

Thank you,

Matt

Matthew Nussbaum

Associate [Email]

Selendy Gay Elsberg PLLC [Web]

Pronouns: he, him, his

+1 212.390.9062 [O]

+1 856.534.8606 [M]

From: Arrow, Sara (x2031) <sarrow@pbwt.com>

Sent: Tuesday, October 31, 2023 9:28 AM

To: Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Matthew Nussbaum <mnussbaum@selendygay.com>

Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>; Emma Ashe O'Toole <eamashe@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Counsel,

We have not received a response to our email below from Friday, October 27. We reiterate that we expect that you will provide your supplemental responses to JJHCS's Third Set of Interrogatories by the close of business on Friday, November 3, 2023. We first requested that you supplement these Responses on September 22, 2023. It is unacceptable for SaveOnSP to take over a month and a half to provide the required supplementation, and it is necessary that we receive your responses before the first deposition.

Please also promptly confirm the location for Ms. Zulqarnain's deposition.

Regards,
Sara

Sara A. Arrow

She | Her | Hers

Patterson Belknap Webb & Tyler LLP

1133 Avenue of the Americas

New York, NY 10036

Phone: (212) 336-2031

Fax: (212) 336-2092

sarrow@pbwt.com | www.pbwt.com

From: Mangi, Adeel A. (x2563) <aamangi@pbwt.com>

Sent: Friday, October 27, 2023 5:10 PM

To: Matthew Nussbaum <mnussbaum@selendygay.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>

Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>; Emma Ashe O'Toole <eamashe@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Counsel -- We require this response at least two days before the scheduled first deposition in this case of Ms. Zulqarnain. Please confirm you will update the response by that date, failing which we will have to raise this issue with the Court on Monday. Thank you.

From: Matthew Nussbaum <mnussbaum@selendygay.com>
Sent: Friday, October 27, 2023 5:07 PM
To: Arrow, Sara (x2031) <sarrow@pbwt.com>
Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; klieb@sillscummis.com <klieb@sillscummis.com>; kbrisson@pbwt.com <kbrisson@pbwt.com>; Emma Ashe O'Toole <eamashe@selendygay.com>
Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Caution: External Email!

Counsel,

We anticipate providing supplemental responses to JJHCS's interrogatories by Friday, Nov. 10.

Thank you,

Matt

Matthew Nussbaum

Associate [\[Email\]](#)

Selendy Gay Elsberg PLLC [\[Web\]](#)

Pronouns: he, him, his

+1 212.390.9062 [O]

+1 856.534.8606 [M]

From: Arrow, Sara (x2031) <sarrow@pbwt.com>
Sent: Wednesday, October 25, 2023 2:08 PM
To: Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; klieb@sillscummis.com <klieb@sillscummis.com>; kbrisson@pbwt.com <kbrisson@pbwt.com>
Cc: Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Wohlforth, E. Evans <EWohlforth@rc.com>; Emma Ashe O'Toole <eamashe@selendygay.com>
Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Elizabeth:

Thank you for confirming that SaveOnSP will provide supplemental responses to JJHCS's Interrogatories Nos. 16-20 to address [REDACTED]. As you know, SaveOnSP also agreed on October 6, 2023 to supplement its Responses to Interrogatories Nos. 19 and 20 to address instances in which [REDACTED].

[REDACTED] We have not received that required supplementation. Please provide the date by which SaveOnSP will fully supplement its Responses to JJHCS's Third Set of Interrogatories. If you do not provide

this date by Friday, October 27, 2023 we will be forced to alert the Court to SaveOnSP's delay and to seek appropriate intervention.

Regards,
Sara

Sara A. Arrow

She | Her | Hers

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New York, NY 10036
Phone: (212) 336-2031
Fax: (212) 336-2092
sarrow@pbwt.com | www.pbwt.com

From: Elizabeth Snow <esnow@selendygay.com>

Sent: Thursday, October 19, 2023 7:22 PM

To: Arrow, Sara (x2031) <sarrow@pbwt.com>; Vinita Davey <vdavey@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>

Cc: Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Wohlforth, E. Evans <EWohlforth@rc.com>; Emma Ashe O'Toole <eashe@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Caution: External Email!

Sara,

After speaking with our client, SaveOnSP is willing to provide the supplemental responses as requested regarding [REDACTED]

This agreement does not constitute a waiver of SaveOnSP's relevance objection. SaveOnSP maintains that documents and information [REDACTED] is wholly irrelevant to this action. We are agreeing to this to eliminate burdening the Court with a dispute.

SaveOnSP will provide its supplemental responses, [REDACTED], as promptly as it is able.

Best,

Elizabeth

Elizabeth Snow

Associate [Email]

Selendy Gay Elsberg PLLC [Web]

Pronouns: she, her, hers

+1 212.390.9330 [O]

+1 540.409.7257 [M]

From: Arrow, Sara (x2031) <sarrow@pbwt.com>

Sent: Wednesday, October 18, 2023 1:34 PM

To: Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>

Cc: Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Wohlforth, E. Evans <EWohlforth@rc.com>; Emma Ashe O'Toole <eashe@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Elizabeth,

We have not heard anything further from SaveOnSP regarding its responses to JJHCS's Third Set of Interrogatories, despite stating that you would provide SaveOnSP's position early this week. Accordingly, we attach JJHCS's portion of a joint motion, which we intend to file with the Court no later than October 27, 2023. We request SaveOnSP's response no later than the close of business on October 24, 2023. In addition, as you know, you have agreed to supplement your Responses to JJHCS's Third Set of Interrogatories and despite multiple requests, we still have not received that required supplementation. Please provide it no later than the close of business tomorrow, October 19, 2023. We reserve all rights.

Regards,

Sara

Sara A. Arrow

She | Her | Hers

Patterson Belknap Webb & Tyler LLP

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Phone: (212) 336-2031

Fax: (212) 336-2092

sarrow@pbwt.com | www.pbwt.com

From: Elizabeth Snow <esnow@selendygay.com>

Sent: Friday, October 13, 2023 6:09 PM

To: Arrow, Sara (x2031) <sarrow@pbwt.com>; Vinita Davey <vdavey@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; Deskus, Cassie (x2003) <cdeskus@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>

Cc: Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Wohlforth, E. Evans <EWohlforth@rc.com>; Emma Ashe O'Toole <eashe@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Caution: External Email!

Best,

Elizabeth Snow

Selendy Gay Elsberg PLLC [[Web](#)]

+1 212.390.9330 [O]

+1 540.409.7257 [M]

From: Arrow, Sara (x2031) <sarrow@pbwt.com>

Sent: Wednesday, October 11, 2023 4:43 PM

To: Vinita Davey <vdavey@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; Deskus, Cassie (x2003) <cdeskus@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; [~jgreenbaum@sillscummis.com](mailto:jgreenbaum@sillscummis.com) <jgreenbaum@sillscummis.com>; [~klieb@sillscummis.com](mailto:klieb@sillscummis.com) <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>

Cc: Andrew Dunlap <adunlap@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Wohlforth, E. Evans <EWohlforth@rc.com>; Emma Ashe O'Toole <eashe@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Elizabeth—

Thank you for participating in our meet and confer session earlier today. As we discussed, we request that, by the close of business on Friday, October 13, 2023, you provide SaveOnSP's position as to whether it will provide information concerning Pharmaceutical Manufacturers other than JJHCS in response to JJHCS's Interrogatories Nos. 16-20. In the event we do not hear from you by the close of business on October 13 or do not find any counterproposal satisfactory, we will conclude that the parties are at impasse as to this issue.

Additionally, we requested that you supplement your responses to JJHCS's Interrogatories Nos. 19 and 20 by September 29. *See* Sept. 22, 2023 Ltr. from S. Arrow to M. Nelson. You have agreed to provide the required supplementation. *See* Oct. 6, 2023 Ltr. from M. Nelson to S. Arrow. Please do so by October 13, 2023.

Regards,

Sara

Sara A. Arrow

She | Her | Hers

Patterson Belknap Webb & Tyler LLP

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New York, NY 10036

Phone: (212) 336-2031

Fax: (212) 336-2092

sarrow@pbwt.com | www.pbwt.com

~jgreenbaum@sillscummis.com <[jgreenbaum@sillscummis.com](mailto:~jgreenbaum@sillscummis.com)>; ~klieb@sillscummis.com <klieb@sillscummis.com>;

Brisson, Katherine (x2552) <kbrisson@pbwt.com>

Cc: Andrew Dunlap <adunlap@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; ewohlforth@rc.com

Subject: RE: JJHCS v. SaveOnSP // SaveOnSP's R&Os to JJHCS 8th Set of RFPs and 3rd Set of Rogs

Meredith,

Please see the attached letter concerning SaveOnSP's R&Os to JJHCS's Eighth Set of Requests for Production.

Regards,

Sara

Sara A. Arrow

She | Her | Hers

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New York, NY 10036

Phone: (212) 336-2031

Fax: (212) 336-2092

sarrow@pbwt.com | www.pbwt.com

From: Meredith Nelson <mnelson@selendygay.com>

Sent: Monday, September 18, 2023 7:51 PM

To: Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659)

<eshane@pbwt.com>; Deskus, Cassie (x2003) <cdeskus@pbwt.com>; LoBiondo, George (x2008)

<globiondo@pbwt.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>;

~jgreenbaum@sillscummis.com <[jgreenbaum@sillscummis.com](mailto:~jgreenbaum@sillscummis.com)>; ~klieb@sillscummis.com <klieb@sillscummis.com>

Cc: Andrew Dunlap <adunlap@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; ewohlforth@rc.com

Subject: JJHCS v. SaveOnSP // SaveOnSP's R&Os to JJHCS 8th Set of RFPs and 3rd Set of Rogs

Caution: External Email!

Counsel,

Attached please find SaveOnSP's R&Os to JJHCS's 8th Set of Requests for Productions and 3rd Set of Interrogatories.

Regards,

Meredith

Meredith Nelson

Associate [[Email](#)]

Selendy Gay Elsberg PLLC [[Web](#)]

Pronouns: she, her, hers

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+1 918.200.3148 [M]

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such person), you may not copy or deliver this message to anyone. In such case, you should destroy this message and kindly notify the sender by reply email. Please advise immediately if you or your employer do not consent to receiving email messages of this kind.

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EXHIBIT 22

SEALED IN ITS ENTIRETY

Exhibit 23

Long, Julia (x2878)

From: Matthew Nussbaum <mnussbaum@selendygay.com>
Sent: Tuesday, January 9, 2024 5:18 PM
To: LoBiondo, George (x2008); Arrow, Sara (x2031); Mangi, Adeel A. (x2563)
Cc: Wohlforth, E. Evans; Andrew Dunlap; Meredith Nelson; Elizabeth Snow; Vinita Davey; _cg J&J-SaveOn; ~jgreenbaum@sillscummis.com; ~klieb@sillscummis.com; Emma Ashe O'Toole; Sarah Chase
Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Caution: External Email!

George,
I can confirm that SaveOn will (1) investigate whether [REDACTED]
[REDACTED] (2)
supplement its responses to J&J's Interrogatories 17, 19 and 20 to reflect the results of that investigation; and (3)
supplement its responses to those interrogatories [REDACTED]

Once again, SaveOn does not believe that the Rules require it to do this, but will do so in order to avoid a dispute.

Best,

Matt

Matthew Nussbaum

Associate [\[Email\]](#)
Selendy Gay Elsberg PLLC [\[Web\]](#)
Pronouns: he, him, his

+1 212.390.9062 [O]

+1 856.534.8606 [M]

From: LoBiondo, George (x2008) <globiondo@pbwt.com>
Sent: Tuesday, January 9, 2024 10:56 AM
To: Matthew Nussbaum <mnussbaum@selendygay.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>
Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; _cg J&J-SaveOn <JJSaveOn@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Emma Ashe O'Toole <eashe@selendygay.com>; Sarah Chase <schase@selendygay.com>
Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Matt,

When will you respond to my note below?

Thanks,
George

From: LoBiondo, George (x2008) <globiondo@pbwt.com>
Sent: Tuesday, January 2, 2024 8:36 AM
To: Matthew Nussbaum <mnussbaum@selendygay.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>
Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; _cg J&J-SaveOn <JJSaveOn@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Emma Ashe O'Toole <eashe@selendygay.com>; Sarah Chase <schase@selendygay.com>
Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Matt,

Thanks for your email, and confirming that SaveOnSP will take the steps you have outlined. However, as noted in my email below, and as we further discussed on December 19, SaveOnSP's investigation and [REDACTED] Rather, SaveOnSP must investigate [REDACTED]

(See highlighting below.) Please promptly confirm that SaveOnSP will do so.

Thanks again,
George

From: Matthew Nussbaum <mnussbaum@selendygay.com>
Sent: Friday, December 29, 2023 12:39 PM
To: LoBiondo, George (x2008) <globiondo@pbwt.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>
Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; _cg J&J-SaveOn <JJSaveOn@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Emma Ashe O'Toole <eashe@selendygay.com>; Sarah Chase <schase@selendygay.com>
Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Caution: External Email!

George,
Following up on your questions from the parties' December 19 meet-and-confer, SaveOn will (1) investigate whether [REDACTED]; (2) supplement its responses to J&J's Interrogatories 17, 19 and 20 to reflect the results of that investigation; and (3) supplement its responses to those interrogatories [REDACTED] SaveOn does not believe that the Rules require it to do this, but agrees to do so in order to avoid a dispute.

Thank you,

Matt

Matthew Nussbaum
Associate [\[Email\]](#)
Selendy Gay Elsberg PLLC [\[Web\]](#)

+1 212.390.9062 [O]

+1 856.534.8606 [M]

From: LoBiondo, George (x2008) <globiondo@pbwt.com>

Sent: Thursday, December 14, 2023 10:58 AM

To: Matthew Nussbaum <mnussbaum@selendygay.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>

Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; _cg J&J-SaveOn <JJSaveOn@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Emma Ashe O'Toole <eamashe@selendygay.com>; Sarah Chase <schase@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Matthew: please respond without further delay to my message below. Thanks.

From: LoBiondo, George (x2008)

Sent: Wednesday, December 6, 2023 11:56 AM

To: 'Matthew Nussbaum' <mnussbaum@selendygay.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>

Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; _cg J&J-SaveOn <JJSaveOn@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Emma Ashe O'Toole <eamashe@selendygay.com>; Sarah Chase <schase@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Matthew,

Thanks for your note. We are surprised by your assertion that SaveOnSP need not update its interrogatory responses, and we disagree with it. In particular, Ms. Zulqarnain's deposition testimony, standing alone, is not enough to serve as SaveOnSP's corrective disclosure. To satisfy the "otherwise made known" standard you reference, the additional information must be "clearly and unambiguously" provided, "in such a form and of such specificity as the functional equivalent of a supplemental discovery response." *E.g., In re Blackrock Mutual Funds Advisory Fee Litig.*, 2018 WL 11242142, at *4 (D.N.J. June 13, 2018). Here, [REDACTED]

[REDACTED] By way of example, [REDACTED]

[REDACTED] (see Tr. at 115:15–25). [REDACTED]

[REDACTED] So SaveOnSP cannot point to this testimony to satisfy Rule 26. See, e.g., *Eli Lilly & Co. v. Actavis Elizabeth LLC*, 2010 WL 1849913, at *9 (D.N.J. May 7, 2010) ("Sporadic mentions in depositions are not a substitute for certified responses to discovery and do not satisfy [a party's] discovery obligations."); *In re Pfizer Inc.*, 2006 WL 2938723, at *3 (D.N.J. Oct. 13, 2006) ("[B]y failing to supplement its response to Teva's interrogatory, Pfizer's response became materially incomplete or incorrect, and Pfizer was thus in violation of Rule 26(e)(2).").

[REDACTED] See *Younes v. 7-Eleven, Inc.*, 312 F.R.D. 692, 705–07 (D.N.J. 2015) ("A party answering interrogatories is under a duty to produce all information available to the party" and a party "is charged with knowledge of what its agents know and what is in the documents available to it."). Because of this, and because [REDACTED] we think it obvious that SaveOnSP should supplement them so that they are both correct and complete. See, e.g., *Prominent GmbH v. Prominent Sys., Inc.*, 2019 WL 3972819, at *2 (W.D. Pa. Aug. 22, 2019) (deposition testimony contrary to past interrogatory responses should be addressed with "a revision to the Interrogatory

Responses”); *Gripper v. City of Springfield, Ill.*, 2006 WL 988481, at *3 (C.D. Ill. Apr. 13, 2006) (declining to sanction a party that “acted promptly after” a deposition “to amend its answer to [a past] interrogatory” when the deponent’s testimony revealed the past interrogatory answer to be false). Please confirm by December 12 that SaveOnSP will do so, or provide your availability to meet and confer.

Thanks again,
George

From: Matthew Nussbaum <mnussbaum@selendygay.com>

Sent: Wednesday, November 29, 2023 9:49 AM

To: LoBiondo, George (x2008) <globiondo@pbwt.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>

Cc: Wohlforth, E. Evans <EWellforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; _cg J&J-SaveOn <JJSaveOn@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Emma Ashe O'Toole <eashe@selendygay.com>; Sarah Chase <schase@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Caution: External Email!

George,

The Federal Rules of Civil Procedure require a party to supplement or correct a response “if the additional or corrective information has not otherwise been made known to the other parties during the discovery process.” FRCP 26(e)(1)(A). One way in which information can be “otherwise . . . made known” to a party is through deposition testimony. *See, e.g., Pa. State Lodge Fraternal Ord. of Police v. Twp. of Springfield*, 2023 WL 7547494, at *7 (E.D. Pa. Nov. 13, 2023) (disclosures did not need to be revised when the information at issue was used during depositions); *Liggins-McCoy v. Democratic Caucus of Senate of Pa.*, 2022 WL 1446987, at *10 (same); *Eli Lilly and Co. v. Actavis Elizabeth LLC*, 2010 WL 1849913, at *3 (D.N.J. May 7, 2010) (“A majority of courts, the leading treatises, and the Advisory Committee Note to Rule 26 agree that an individual’s existence or knowledge can ‘otherwise be made known,’ and thus be sufficiently disclosed for Rule 26 purposes, through deposition testimony.”); *In re Jacoby Airplane Crash*, 2007 WL 559801, at *8 (D.N.J. Feb. 14, 2007) (collecting cases).

The Rules thus do not require SaveOnSP to update its interrogatory responses [REDACTED]. If you are aware of any authority to the contrary, please let us know.

Thank you,

Matt

Matthew Nussbaum

Associate [Email]

Selendy Gay Elsberg PLLC [Web]

Pronouns: he, him, his

+1 212.390.9062 [O]

+1 856.534.8606 [M]

From: LoBiondo, George (x2008) <globiondo@pbwt.com>

Sent: Wednesday, November 22, 2023 12:09 PM

To: Matthew Nussbaum <mnussbaum@selendygay.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>

Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; _cg J&J-SaveOn <JJSaveOn@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Emma Ashe O'Toole <eamashe@selendygay.com>; Sarah Chase <schase@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Counsel,

Please let us know when SaveOnSP will supplement its responses to JJHCS's interrogatories [REDACTED]

Thanks very much.
George

From: Matthew Nussbaum <mnussbaum@selendygay.com>

Sent: Thursday, November 9, 2023 10:30 AM

To: Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>

Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>; Emma Ashe O'Toole <eamashe@selendygay.com>; Sarah Chase <schase@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Caution: External Email!

Counsel,

Attached, please find SaveOnSP's supplemental responses and objections to JJHCS's interrogatory 19, including a signed certification.

Thank you,

Matt

Matthew Nussbaum

Associate [[Email](#)]

Selendy Gay Elsberg PLLC [[Web](#)]

Pronouns: he, him, his

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From: Matthew Nussbaum <mnussbaum@selendygay.com>

Sent: Monday, November 6, 2023 11:35 AM

To: Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>

Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>; Emma Ashe O'Toole <eamashe@selendygay.com>; Sarah Chase <schase@selendygay.com>
Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Good morning, Counsel,

Attached, please find SaveOnSP's supplemental responses and objections to JJHCS's interrogatories 16, 17, and 18, including a signed certification. Please also find the signed certification for the supplemental responses to 19 and 20, which were served on Friday.

Thank you,
Matt

Matthew Nussbaum

Associate [\[Email\]](#)

Selendy Gay Elsberg PLLC [\[Web\]](#)

Pronouns: he, him, his

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+1 856.534.8606 [M]

From: Arrow, Sara (x2031) <sarrow@pbwt.com>

Sent: Friday, November 3, 2023 4:08 PM

To: Matthew Nussbaum <mnussbaum@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>

Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>; Emma Ashe O'Toole <eamashe@selendygay.com>; Sarah Chase <schase@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Counsel—

Thank you for providing these supplemental Responses & Objections to JJHCS's Interrogatories Nos. 19 and 20. As you know, you agreed to supplement your Responses to JJHCS's entire third set of Interrogatories, inclusive of Interrogatories Nos. 16-20, to address [REDACTED] See Oct. 19, 2023 and Oct. 25, 2023 Emails between E. Snow and S. Arrow. You appear not to have done so with respect to Interrogatories 16-18. Please provide the entirety of the required supplementation no later than 2 p.m. on Monday, November 6, 2023. In addition, please provide the required signed certification by 2 p.m. on Monday, November 6. JJHCS reserves all rights.

Thank you for confirming that Ms. Zulqarnain will be made available for a deposition on Tuesday, November 7 at your offices beginning at 9:30 a.m. The following individuals will be attending on behalf of JJHCS: Katherine Brisson, Sheryn George, Jeffrey Greenbaum, and George LoBiondo. We will follow-up with the names of the videographer and stenographer as soon as they are available.

Regards,
Sara

Sara A. Arrow

She | Her | Hers

Patterson Belknap Webb & Tyler LLP

1133 Avenue of the Americas

New York, NY 10036

Phone: (212) 336-2031

Fax: (212) 336-2092

sarrow@pbwt.com | www.pbwt.com

From: Matthew Nussbaum <mnussbaum@selendygay.com>

Sent: Friday, November 3, 2023 3:03 PM

To: Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>

Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>; Emma Ashe O'Toole <eamsh@selendygay.com>; Sarah Chase <schase@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Caution: External Email!

Counsel,

Attached, please find SaveOnSP's supplemental responses and objections to JJHCS's Third Set of Interrogatories. A signed certification will follow early next week.

Thank you,

Matt

Matthew Nussbaum

Associate [[Email](#)]

Selendy Gay Elsberg PLLC [[Web](#)]

Pronouns: he, him, his

+1 212.390.9062 [O]

+1 856.534.8606 [M]

From: Matthew Nussbaum

Sent: Wednesday, November 1, 2023 3:35 PM

To: Arrow, Sara (x2031) <sarrow@pbwt.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>

Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552)

<kbrisson@pbwt.com>; Emma Ashe O'Toole <eashe@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Counsel,

We are working to complete our investigation and prepare the requested responses as promptly as possible. We will endeavor to provide them to you by Friday.

We can also confirm that Ms. Zulqarnain will be made available for a deposition on Tuesday, Nov. 7 at our offices beginning at 9:30 a.m. Please advise, at your earliest convenience, who will be attending so that we can ensure access to our building.

Thank you,
Matt

Matthew Nussbaum

Associate [Email]

Selendy Gay Elsberg PLLC [Web]

Pronouns: he, him, his

+1 212.390.9062 [O]

+1 856.534.8606 [M]

From: Arrow, Sara (x2031) <sarrow@pbwt.com>

Sent: Tuesday, October 31, 2023 9:28 AM

To: Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Matthew Nussbaum <mnussbaum@selendygay.com>

Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>; Emma Ashe O'Toole <eashe@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Counsel,

We have not received a response to our email below from Friday, October 27. We reiterate that we expect that you will provide your supplemental responses to JJHCS's Third Set of Interrogatories by the close of business on Friday, November 3, 2023. We first requested that you supplement these Responses on September 22, 2023. It is unacceptable for SaveOnSP to take over a month and a half to provide the required supplementation, and it is necessary that we receive your responses before the first deposition.

Please also promptly confirm the location for Ms. Zulqarnain's deposition.

Regards,
Sara

Sara A. Arrow

She | Her | Hers

Patterson Belknap Webb & Tyler LLP

1133 Avenue of the Americas

New York, NY 10036

Phone: (212) 336-2031

Fax: (212) 336-2092

sarrow@pbwt.com | www.pbwt.com

From: Mangi, Adeel A. (x2563) <aamangi@pbwt.com>

Sent: Friday, October 27, 2023 5:10 PM

To: Matthew Nussbaum <mnussbaum@selendygay.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>

Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>; Emma Ashe O'Toole <eashe@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Counsel -- We require this response at least two days before the scheduled first deposition in this case of Ms. Zulqarnain. Please confirm you will update the response by that date, failing which we will have to raise this issue with the Court on Monday. Thank you.

From: Matthew Nussbaum <mnussbaum@selendygay.com>

Sent: Friday, October 27, 2023 5:07 PM

To: Arrow, Sara (x2031) <sarrow@pbwt.com>

Cc: Wohlforth, E. Evans <EWohlforth@rc.com>; Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>; Emma Ashe O'Toole <eashe@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Caution: External Email!

Counsel,

We anticipate providing supplemental responses to JJHCS's interrogatories by Friday, Nov. 10.

Thank you,

Matt

Matthew Nussbaum

Associate [[Email](#)]

Selendy Gay Elsberg PLLC [[Web](#)]

Pronouns: he, him, his

+1 212.390.9062 [O]

+1 856.534.8606 [M]

From: Arrow, Sara (x2031) <sarrow@pbwt.com>
Sent: Wednesday, October 25, 2023 2:08 PM
To: Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>
Cc: Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Wohlforth, E. Evans <EWohlforth@rc.com>; Emma Ashe O'Toole <eashe@selendygay.com>
Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Elizabeth:

Thank you for confirming that SaveOnSP will provide supplemental responses to JJHCS's Interrogatories Nos. 16-20 to address [REDACTED]. As you know, SaveOnSP also agreed on October 6, 2023 to supplement its Responses to Interrogatories Nos. 19 and 20 to address instances in which [REDACTED]. [REDACTED] We have not received that required supplementation. Please provide the date by which SaveOnSP will fully supplement its Responses to JJHCS's Third Set of Interrogatories. If you do not provide this date by Friday, October 27, 2023 we will be forced to alert the Court to SaveOnSP's delay and to seek appropriate intervention.

Regards,
Sara

Sara A. Arrow

She | Her | Hers

Patterson Belknap Webb & Tyler LLP

1133 Avenue of the Americas

New York, NY 10036

Phone: (212) 336-2031

Fax: (212) 336-2092

sarrow@pbwt.com | www.pbwt.com

From: Elizabeth Snow <esnow@selendygay.com>
Sent: Thursday, October 19, 2023 7:22 PM
To: Arrow, Sara (x2031) <sarrow@pbwt.com>; Vinita Davey <vdavey@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>
Cc: Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Wohlforth, E. Evans <EWohlforth@rc.com>; Emma Ashe O'Toole <eashe@selendygay.com>
Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Caution: External Email!

Sara,

After speaking with our client, SaveOnSP is willing to provide the supplemental responses as requested regarding any [REDACTED]

This agreement does not constitute a waiver of SaveOnSP's relevance objection. SaveOnSP maintains that documents and [REDACTED] wholly irrelevant to this action. We are agreeing to this to eliminate burdening the Court with a dispute.

SaveOnSP will provide its supplemental responses, [REDACTED] as promptly as it is able.

Best,

Elizabeth

Elizabeth Snow

Associate [Email]

Selendy Gay Elsberg PLLC [Web]

Pronouns: she, her, hers

+1 212.390.9330 [O]

+1 540.409.7257 [M]

From: Arrow, Sara (x2031) <sarrow@pbwt.com>

Sent: Wednesday, October 18, 2023 1:34 PM

To: Elizabeth Snow <esnow@selendygay.com>; Vinita Davey <vdavey@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>

Cc: Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Wohlforth, E. Evans <EWohlforth@rc.com>; Emma Ashe O'Toole <eamshe@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Elizabeth,

We have not heard anything further from SaveOnSP regarding its responses to JJHCS's Third Set of Interrogatories, despite stating that you would provide SaveOnSP's position early this week. Accordingly, we attach JJHCS's portion of a joint motion, which we intend to file with the Court no later than October 27, 2023. We request SaveOnSP's response no later than the close of business on October 24, 2023. In addition, as you know, you have agreed to supplement your Responses to JJHCS's Third Set of Interrogatories and despite multiple requests, we still have not received that required supplementation. Please provide it no later than the close of business tomorrow, October 19, 2023. We reserve all rights.

Regards,
Sara

Sara A. Arrow

She | Her | Hers

Patterson Belknap Webb & Tyler LLP

1133 Avenue of the Americas

New York, NY 10036

Phone: (212) 336-2031

Fax: (212) 336-2092

sarrow@pbwt.com | www.pbwt.com

From: Elizabeth Snow <esnow@selendygay.com>

Sent: Friday, October 13, 2023 6:09 PM

To: Arrow, Sara (x2031) <sarrow@pbwt.com>; Vinita Davey <vdavey@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; Deskus, Cassie (x2003) <cdeskus@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>

Cc: Andrew Dunlap <adunlap@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Wohlforth, E. Evans <EWohlforth@rc.com>; Emma Ashe O'Toole <eamashe@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Caution: External Email!

Sara,

We are still speaking with our client regarding the interrogatory responses referenced below. We anticipate being in a position to respond with SaveOnSP's position early next week.

Best,

Elizabeth

Elizabeth Snow

Associate [\[Email\]](#)

Selendy Gay Elsberg PLLC [\[Web\]](#)

Pronouns: she, her, hers

+1 212.390.9330 [O]

+1 540.409.7257 [M]

From: Arrow, Sara (x2031) <sarrow@pbwt.com>

Sent: Wednesday, October 11, 2023 4:43 PM

To: Vinita Davey <vdavey@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; Deskus, Cassie (x2003) <cdeskus@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>

Cc: Andrew Dunlap <adunlap@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Wohlforth, E. Evans <EWohlforth@rc.com>; Emma Ashe O'Toole <eamashe@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Elizabeth—

Thank you for participating in our meet and confer session earlier today. As we discussed, we request that, by the close of business on Friday, October 13, 2023, you provide SaveOnSP's position as to whether it will provide information concerning Pharmaceutical Manufacturers other than JJHCS in response to JJHCS's Interrogatories Nos. 16-20. In the

event we do not hear from you by the close of business on October 13 or do not find any counterproposal satisfactory, we will conclude that the parties are at impasse as to this issue.

Additionally, we requested that you supplement your responses to JJHCS's Interrogatories Nos. 19 and 20 by September 29. See Sept. 22, 2023 Ltr. from S. Arrow to M. Nelson. You have agreed to provide the required supplementation. See Oct. 6, 2023 Ltr. from M. Nelson to S. Arrow. Please do so by October 13, 2023.

Regards,
Sara

Sara A. Arrow

She | Her | Hers

Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas
New York, NY 10036
Phone: (212) 336-2031
Fax: (212) 336-2092
sarrow@pbwt.com | www.pbwt.com

From: Arrow, Sara (x2031)

Sent: Friday, October 6, 2023 5:26 PM

To: 'Vinita Davey' <vdavey@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; Deskus, Cassie (x2003) <cdeskus@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>

Cc: Andrew Dunlap <adunlap@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Wohlforth, E. Evans <EWohlforth@rc.com>; Emma Ashe O'Toole <eashe@selendygay.com>

Subject: RE: JJHCS v. SaveOnSP // Request for Meet and Confer

Counsel—

We would like to meet and confer concerning the letters you sent on October 3, 2023, including the letter from Andrew Dunlap concerning JJHCS's RFP No. 83, the letter from Elizabeth Snow concerning JJHCS's RFPs 89 and 90, the letter from Meredith Nelson concerning JJHCS's Eighth Set of RFPs, and all previous correspondence concerning the same topics. We would also like to address your October 6, 2023 letter regarding SaveOnSP's Responses and Objections to JJHCS's Third Set of Interrogatories and previous correspondence regarding the same.

Please let us know your availability to confer from 11-6 on either Monday, October 9 or Tuesday, October 10. Please reserve an hour and half for our meet and confer session.

Have a nice weekend.

Thanks,
Sara

Sara A. Arrow

She | Her | Hers

Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas

15

Please see the attached letter concerning SaveOnSP's R&Os to JJHCS's Third Set of Interrogatories.

Regards,
Sara

Sara A. Arrow

She | Her | Hers

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New York, NY 10036
Phone: (212) 336-2031
Fax: (212) 336-2092
sarrow@pbwt.com | www.pbwt.com

From: Arrow, Sara (x2031)

Sent: Thursday, September 21, 2023 5:25 PM

To: 'Meredith Nelson' <mnelson@selendygay.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; Deskus, Cassie (x2003) <cdeskus@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; klieb@sillscummis.com <klieb@sillscummis.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>

Cc: Andrew Dunlap <adunlap@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; ewohlforth@rc.com

Subject: RE: JJHCS v. SaveOnSP // SaveOnSP's R&Os to JJHCS 8th Set of RFPs and 3rd Set of Rogs

Meredith,

Please see the attached letter concerning SaveOnSP's R&Os to JJHCS's Eighth Set of Requests for Production.

Regards,
Sara

Sara A. Arrow

She | Her | Hers

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1133 Avenue of the Americas
New York, NY 10036
Phone: (212) 336-2031
Fax: (212) 336-2092
sarrow@pbwt.com | www.pbwt.com

From: Meredith Nelson <mnelson@selendygay.com>

Sent: Monday, September 18, 2023 7:51 PM

To: Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; Shane, Beth (x2659) <eshane@pbwt.com>; Deskus, Cassie (x2003) <cdeskus@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Long, Julia (x2878) <jlong@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; klieb@sillscummis.com <klieb@sillscummis.com>

Cc: Andrew Dunlap <adunlap@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; ewohlforth@rc.com

Subject: JJHCS v. SaveOnSP // SaveOnSP's R&Os to JJHCS 8th Set of RFPs and 3rd Set of Rogs

Caution: External Email!

Counsel,

Attached please find SaveOnSP's R&Os to JJHCS's 8th Set of Requests for Productions and 3rd Set of Interrogatories.

Regards,

Meredith

Meredith Nelson

Associate [\[Email\]](#)

Selendy Gay Elsberg PLLC [\[Web\]](#)

Pronouns: she, her, hers

+1 212.390.9069 [O]

+1 918.200.3148 [M]

Privileged/Confidential Information may be contained in this message. If you are not the addressee indicated in this message (or responsible for delivery of the message to such person), you may not copy or deliver this message to anyone. In such case, you should destroy this message and kindly notify the sender by reply email. Please advise immediately if you or your employer do not consent to receiving email messages of this kind.

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EXHIBIT 24

SEALED IN ITS ENTIRETY

Exhibit 25

E. Evans Wohlforth, Jr., Esq.
ROBINSON & COLE LLP
666 Third Avenue, 20th Floor
New York, NY 10017-4132
Main (212) 451-2900
Fax (212) 451-2999
ewohlforth@rc.com

David Elsberg (*admitted pro hac vice*)
Andrew R. Dunlap (*admitted pro hac vice*)
Meredith Nelson (*admitted pro hac vice*)
Elizabeth Snow (*admitted pro hac vice*)
SELENDY GAY ELSBERG, PLLC
1290 Avenue of the Americas
New York, NY 10104
212-390-9000
deslberg@selendygay.com
adunlap@selendygay.com
mnelson@selendygay.com
esnow@selendygay.com

Attorneys for Defendant Save On SP, LLC

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JOHNSON & JOHNSON
HEALTH CARE SYSTEMS INC.,

Plaintiff,

v.

SAVE ON SP, LLC,

Defendant.

Civ. A. No. 22-2632 (JMV) (CLW)

**DEFENDANT'S SUPPLEMENTAL
RESPONSES AND OBJECTIONS TO
PLAINTIFF'S THIRD SET OF
INTERROGATORIES**

To: Jeffrey J. Greenbaum, Esq.
SILLS CUMMIS & GROSS, P.C.
One Riverfront Plaza
Newark, New Jersey 07102
973-643-7000

Adeel A. Mangi, Esq.
Harry Sandick, Esq.
George LoBiondo, Esq.
PATTERSON BELKNAP WEBB
& TYLER LLP
1133 Avenue of the Americas
New York, New York

*Attorneys for Plaintiff Johnson & Johnson
Health Care Systems Inc.*

Pursuant to Federal Rules of Civil Procedure 26 and 33, and Local Civil Rule 33.1, Defendant Save On SP, LLC (“SaveOnSP”), by and through its undersigned counsel, hereby supplements its Responses and Objections to Plaintiff Johnson & Johnson Health Care Systems Inc.’s (“JJHCS”) Interrogatory Nos. 19 and 20, contained in SaveOnSP’s Responses and Objections to JJHCS’s Third Set of Interrogatories, dated September 18, 2023. These responses should be deemed to supplement and amend SaveOnSP’s disclosures under Rule 26(a) of the Federal Rules of Civil Procedure. If SaveOnSP learns that in some material respect its responses are incomplete or incorrect, SaveOnSP will supplement or correct them if the additional or corrective information has not otherwise been made known to JJHCS during the discovery process or in writing. Fed. R. Civ. P. 26(e)(1)(A). SaveOnSP’s responses to these Interrogatories are based on information available to it at the time it made them. SaveOnSP reserves the right to modify or supplement its responses.

GENERAL OBJECTIONS

1. JJHCS does not limit any of its Interrogatories to nonprivileged material. SaveOnSP objects to each Interrogatory to the extent that it seeks disclosure of information which is subject to the attorney-client privilege, the work product doctrine, the common-interest privilege, or any other applicable privileges, immunities, or doctrines.

2. JJHCS does not limit any of its Interrogatories to information within SaveOnSP's possession, custody, or control. SaveOnSP objects to each Interrogatory to the extent that it seeks disclosure of information that is not within SaveOnSP's possession, custody, or control that SaveOnSP can locate after a reasonable inquiry.

OBJECTIONS TO DEFINITIONS

3. SaveOnSP objects to the term "or other substance" in the definition of "Pharmaceutical Manufacturer" as vague and ambiguous. SaveOnSP will interpret the term "Pharmaceutical Manufacturer" to mean any entity that develops, produces, manufactures, creates, licenses, or distributes any pharmaceutical, drug, or medicine used in the treatment, cure, prevention or diagnosis of any illness, disease, disorder, or other condition.

4. SaveOnSP objects to the definition of "SaveOnSP" as including attorneys and accountants who may be outside of SaveOnSP's possession, custody, and control. SaveOnSP interprets the term "SaveOnSP" to mean Save On SP, LLC, and any and all predecessors and successors in interest, assignees, parents, subsidiaries, affiliates, divisions or departments, agents, representatives, directors, officers, employees, committees, and all persons or entities acting or purporting to act on behalf or under the control of Save On SP, LLC.

5. SaveOnSP objects to the definition of "SaveOnSP Program," as described in Complaint ¶¶ 9-17, because it mischaracterizes SaveOnSP's services. SaveOnSP will not use this definition.

6. SaveOnSP objects to the definition of "You" and "Your" to the same extent that it objects to the definition of "SaveOnSP."

OBJECTIONS TO INSTRUCTIONS

7. SaveOnSP objects to Instruction No. 16 in Plaintiff's Third Set of Interrogatories to the extent that JJHCS attempts to impose requirements on SaveOnSP beyond those required by the Federal Rules of Civil Procedure, agreed to by the parties, or ordered by the Court.

8. SaveOnSP objects to Instruction No. 17 to the extent it purports to require SaveOnSP to answer Plaintiff's Interrogatories based on knowledge obtained from all available sources. SaveOnSP will answer Plaintiff's Interrogatories based on information in its possession, custody, and control available to it following a reasonable inquiry.

9. SaveOnSP objects to Instruction No. 18 to the extent that JJHCS attempts to impose requirements on SaveOnSP beyond those required by the Federal Rules of Civil Procedure, agreed to by the parties, or ordered by the Court.

10. SaveOnSP objects to Instruction No. 19 because it attempts to require SaveOnSP to provide information that is irrelevant to the claims and defenses in this action. SaveOnSP will provide information on its interactions with JJHCS and on its general business practices applicable to multiple Pharmaceutical Manufacturers that include such practices applicable to JJHCS.

Dated: November 3, 2023

By: /s/ E. Evans Wohlforth, Jr.
E. Evans Wohlforth, Jr.
ROBINSON & COLE LLP
666 Third Avenue, 20th Floor
New York, NY 10017-4132
Main (212) 451-2900
Fax (212) 451-2999
ewohlforth@rc.com

David Elsberg
Andrew R. Dunlap
Meredith Nelson
Elizabeth Snow

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212-390-9000
deslberg@selendygay.com
adunlap@selendygay.com
mnelson@selendygay.com
esnow@selendygay.com

*Attorneys for Defendant Save On SP,
LLC*

SUPPLEMENTAL RESPONSES TO PLAINTIFF’S INTERROGATORY
NOS. 19 AND 20

INTERROGATORY NO. 19:

Describe, in as much detail as possible, all instances where and all circumstances under which You have lied to, misled, or deceived Pharmaceutical Manufacturers, including all instances in which Your representatives or employees have misrepresented their identities or concealed their affiliation with SaveOnSP when communicating with Pharmaceutical Manufacturers.

RESPONSE:

A series of horizontal black bars of varying lengths, representing redacted text. The bars are arranged in a list-like fashion, with some bars starting at the left margin and others indented. The lengths vary significantly, with some bars spanning most of the page width and others being much shorter. The bars are solid black and have a uniform thickness.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SaveOnSP designates its response to this Interrogatory as Attorneys' Eyes Only under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

INTERROGATORY NO. 20:

Describe, in as much detail as possible, each instance where and all circumstances under which You have instructed Your representatives or employees to lie to, mislead, or deceive Pharmaceutical Manufacturers including with regard to their affiliation with SaveOnSP.

RESPONSE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8

CERTIFICATION OF SAVE ON SP, LLC

I, Jody Miller, am the President of Save On SP, LLC ("SaveOnSP"). I am authorized to submit this certification on behalf of SaveOnSP. I certify that the foregoing answers made by me to these Interrogatories are true. I am aware that if any of the foregoing answers are willfully false, SaveOnSP and I are subject to punishment. I certify that in responding to the foregoing Interrogatories, I have furnished all information available to SaveOnSP, its agents, employees and attorneys. As to those answers which are not within my personal knowledge, I certify that I have provided the name and address of every person from whom such information was received or, where the source of such information is documentary, a full description of the document including its location.

Save On SP, LLC

By: 

Jody Miller
President

Date: November 3, 2023

EXHIBIT 26

SEALED IN ITS ENTIRETY

Exhibit 27

Zielinski, Caroline (x2206)

From: Matthew Nussbaum <mnussbaum@selendygay.com>
Sent: Thursday, February 1, 2024 1:33 PM
To: Mangi, Adeel A. (x2563); Sandick, Harry (x2723); LoBiondo, George (x2008); Arrow, Sara (x2031); Long, Julia (x2878); Brisson, Katherine (x2552); Eppler, Ian (x2205); ~jgreenbaum@sillscummis.com; ~klieb@sillscummis.com; _cg J&J-SaveOn
Cc: Andrew Dunlap; Elizabeth Snow; Meredith Nelson; Wohlforth, E. Evans
Subject: JJHCS v. SaveOnSP (Case No. 2:22-cv-02632-ES-CLW)
Attachments: 2024.02.01 Letter from E. Snow to G. LoBiondo.pdf; 2024.02.01 SaveOn's Supplemental R&Os.pdf

Caution: External Email!

Counsel,

Attached, please find SaveOn's supplemental responses and objections to J&J's interrogatories and an accompanying letter. A signed certification will follow later this week.

Thank you,

Matt

Matthew Nussbaum

Associate [\[Email\]](#)

Selendy Gay PLLC [\[Web\]](#)

Pronouns: he, him, his

+1 212.390.9062 [O]

+1 856.534.8606 [M]

Exhibit 28

Zielinski, Caroline (x2206)

From: Zielinski, Caroline (x2206)
Sent: Tuesday, February 20, 2024 5:44 PM
To: 'Matthew Nussbaum'; Andrew Dunlap; Taylor Stone; Meredith Nelson; Elizabeth Snow; Wohlforth, E. Evans; Mangi, Adeel A. (x2563); Sandick, Harry (x2723); LoBiondo, George (x2008); Arrow, Sara (x2031); Brisson, Katherine (x2552); Eppler, Ian (x2205); ~jgreenbaum@sillscummis.com; ~klieb@sillscummis.com
Cc: _cg J&J-SaveOn
Subject: RE: JJHCS v. SaveOnSP (Case No. 2:22-cv-02632-JKS-CLW)//Interrogatory Responses

Matt,

Tomorrow, it will be three weeks since the deadline for SaveOnSP to serve its supplemental interrogatory responses. Despite your assurance that SaveOnSP would provide a verification for its supplemental responses by February 2, 2024, SaveOnSP has still failed to do so. This is unacceptable. At the very least, please provide a verification immediately. There is simply no excuse for not having provided a verification, which should have come with the responses. Moreover, please provide a comprehensive response addressing the issues identified in our February 9, 2024 letter, as well as any supplemental responses to JJHCS's interrogatories, by close of business Thursday. If for some reason that is not possible, we are available to meet and confer Thursday afternoon.

Best,
Caroline

Caroline Zielinski
Litigation Associate

Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas
New York, NY 10036

T 212.336.2206
F 212.336.1220

czielinski@pbwt.com

From: Matthew Nussbaum <mnussbaum@selendygay.com>
Sent: Friday, February 16, 2024 5:09 PM
To: Zielinski, Caroline (x2206) <czielinski@pbwt.com>; Andrew Dunlap <adunlap@selendygay.com>; Taylor Stone <tstone@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Wohlforth, E. Evans <EWohlforth@rc.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>; Eppler, Ian (x2205) <ieppler@pbwt.com>; ~jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; ~klieb@sillscummis.com <klieb@sillscummis.com>
Cc: _cg J&J-SaveOn <JJSaveOn@pbwt.com>
Subject: RE: JJHCS v. SaveOnSP (Case No. 2:22-cv-02632-JKS-CLW)

Caution: External Email!

Counsel,

SaveOn is in receipt of your February 9, 2024 letter regarding its supplemental interrogatory responses and intends to respond next week.

Thank you,

Matt

Matthew Nussbaum

Associate [Email]

Selendy Gay PLLC [Web]

Pronouns: he, him, his

+1 212.390.9062 [O]

+1 856.534.8606 [M]

From: Zielinski, Caroline (x2206) <czielinski@pbwt.com>

Sent: Friday, February 9, 2024 5:36 PM

To: Matthew Nussbaum <mnussbaum@selendygay.com>; Andrew Dunlap <adunlap@selendygay.com>; Taylor Stone <tstone@selendygay.com>; Meredith Nelson <mnelson@selendygay.com>; Elizabeth Snow <esnow@selendygay.com>; Wohlforth, E. Evans <EWohlforth@rc.com>; Mangi, Adeel A. (x2563) <aamangi@pbwt.com>; Sandick, Harry (x2723) <hsandick@pbwt.com>; LoBiondo, George (x2008) <globiondo@pbwt.com>; Arrow, Sara (x2031) <sarrow@pbwt.com>; Brisson, Katherine (x2552) <kbrisson@pbwt.com>; Eppler, Ian (x2205) <ieppler@pbwt.com>; jgreenbaum@sillscummis.com <jgreenbaum@sillscummis.com>; klieb@sillscummis.com <klieb@sillscummis.com>

Cc: _cg J&J-SaveOn <JJSaveOn@pbwt.com>

Subject: JJHCS v. SaveOnSP (Case No. 2:22-cv-02632-JKS-CLW)

Counsel,

Please see the attached correspondence.

Best,
Caroline

Caroline Zielinski
Litigation Associate

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Exhibit 29

Elizabeth Snow
Associate
212.390.9330
esnow@selendygay.com

Elizabeth H. Snow
Associate